

As Introduced

**135th General Assembly
Regular Session
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S. B. No. 29

Senator Huffman, S.

Cosponsors: Senators Cirino, O'Brien, Schaffer, Romanchuk



A BILL

To amend section 149.43 and to enact sections 1
3319.324, 3319.325, and 3319.326 of the Revised 2
Code regarding education records and student 3
data privacy. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 149.43 be amended and sections 5
3319.324, 3319.325, and 3319.326 of the Revised Code be enacted 6
to read as follows: 7

Sec. 149.43. (A) As used in this section: 8

(1) "Public record" means records kept by any public 9
office, including, but not limited to, state, county, city, 10
village, township, and school district units, and records 11
pertaining to the delivery of educational services by an 12
alternative school in this state kept by the nonprofit or for- 13
profit entity operating the alternative school pursuant to 14
section 3313.533 of the Revised Code. "Public record" does not 15
mean any of the following: 16

(a) Medical records; 17

(b) Records pertaining to probation and parole	18
proceedings, to proceedings related to the imposition of	19
community control sanctions and post-release control sanctions,	20
or to proceedings related to determinations under section	21
2967.271 of the Revised Code regarding the release or maintained	22
incarceration of an offender to whom that section applies;	23
(c) Records pertaining to actions under section 2151.85	24
and division (C) of section 2919.121 of the Revised Code and to	25
appeals of actions arising under those sections;	26
(d) Records pertaining to adoption proceedings, including	27
the contents of an adoption file maintained by the department of	28
health under sections 3705.12 to 3705.124 of the Revised Code;	29
(e) Information in a record contained in the putative	30
father registry established by section 3107.062 of the Revised	31
Code, regardless of whether the information is held by the	32
department of job and family services or, pursuant to section	33
3111.69 of the Revised Code, the office of child support in the	34
department or a child support enforcement agency;	35
(f) Records specified in division (A) of section 3107.52	36
of the Revised Code;	37
(g) Trial preparation records;	38
(h) Confidential law enforcement investigatory records;	39
(i) Records containing information that is confidential	40
under section 2710.03 or 4112.05 of the Revised Code;	41
(j) DNA records stored in the DNA database pursuant to	42
section 109.573 of the Revised Code;	43
(k) Inmate records released by the department of	44
rehabilitation and correction to the department of youth	45

services or a court of record pursuant to division (E) of	46
section 5120.21 of the Revised Code;	47
(l) Records maintained by the department of youth services	48
pertaining to children in its custody released by the department	49
of youth services to the department of rehabilitation and	50
correction pursuant to section 5139.05 of the Revised Code;	51
(m) Intellectual property records;	52
(n) Donor profile records;	53
(o) Records maintained by the department of job and family	54
services pursuant to section 3121.894 of the Revised Code;	55
(p) Designated public service worker residential and	56
familial information;	57
(q) In the case of a county hospital operated pursuant to	58
Chapter 339. of the Revised Code or a municipal hospital	59
operated pursuant to Chapter 749. of the Revised Code,	60
information that constitutes a trade secret, as defined in	61
section 1333.61 of the Revised Code;	62
(r) Information pertaining to the recreational activities	63
of a person under the age of eighteen;	64
(s) In the case of a child fatality review board acting	65
under sections 307.621 to 307.629 of the Revised Code or a	66
review conducted pursuant to guidelines established by the	67
director of health under section 3701.70 of the Revised Code,	68
records provided to the board or director, statements made by	69
board members during meetings of the board or by persons	70
participating in the director's review, and all work products of	71
the board or director, and in the case of a child fatality	72
review board, child fatality review data submitted by the board	73

to the department of health or a national child death review	74
database, other than the report prepared pursuant to division	75
(A) of section 307.626 of the Revised Code;	76
(t) Records provided to and statements made by the	77
executive director of a public children services agency or a	78
prosecuting attorney acting pursuant to section 5153.171 of the	79
Revised Code other than the information released under that	80
section;	81
(u) Test materials, examinations, or evaluation tools used	82
in an examination for licensure as a nursing home administrator	83
that the board of executives of long-term services and supports	84
administers under section 4751.15 of the Revised Code or	85
contracts under that section with a private or government entity	86
to administer;	87
(v) Records the release of which is prohibited by state or	88
federal law;	89
(w) Proprietary information of or relating to any person	90
that is submitted to or compiled by the Ohio venture capital	91
authority created under section 150.01 of the Revised Code;	92
(x) Financial statements and data any person submits for	93
any purpose to the Ohio housing finance agency or the	94
controlling board in connection with applying for, receiving, or	95
accounting for financial assistance from the agency, and	96
information that identifies any individual who benefits directly	97
or indirectly from financial assistance from the agency;	98
(y) Records listed in section 5101.29 of the Revised Code;	99
(z) Discharges recorded with a county recorder under	100
section 317.24 of the Revised Code, as specified in division (B)	101
(2) of that section;	102

(aa) Usage information including names and addresses of specific residential and commercial customers of a municipally owned or operated public utility;	103 104 105
(bb) Records described in division (C) of section 187.04 of the Revised Code that are not designated to be made available to the public as provided in that division;	106 107 108
(cc) Information and records that are made confidential, privileged, and not subject to disclosure under divisions (B) and (C) of section 2949.221 of the Revised Code;	109 110 111
(dd) Personal information, as defined in section 149.45 of the Revised Code;	112 113
(ee) The confidential name, address, and other personally identifiable information of a program participant in the address confidentiality program established under sections 111.41 to 111.47 of the Revised Code, including the contents of any application for absent voter's ballots, absent voter's ballot identification envelope statement of voter, or provisional ballot affirmation completed by a program participant who has a confidential voter registration record; records or portions of records pertaining to that program that identify the number of program participants that reside within a precinct, ward, township, municipal corporation, county, or any other geographic area smaller than the state; and any real property confidentiality notice filed under section 111.431 of the Revised Code and the information described in division (C) of that section. As used in this division, "confidential address" and "program participant" have the meaning defined in section 111.41 of the Revised Code.	114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130
(ff) Orders for active military service of an individual	131

serving or with previous service in the armed forces of the 132
United States, including a reserve component, or the Ohio 133
organized militia, except that, such order becomes a public 134
record on the day that is fifteen years after the published date 135
or effective date of the call to order; 136

(gg) The name, address, contact information, or other 137
personal information of an individual who is less than eighteen 138
years of age that is included in any record related to a traffic 139
accident involving a school vehicle in which the individual was 140
an occupant at the time of the accident; 141

(hh) Protected health information, as defined in 45 C.F.R. 142
160.103, that is in a claim for payment for a health care 143
product, service, or procedure, as well as any other health 144
claims data in another document that reveals the identity of an 145
individual who is the subject of the data or could be used to 146
reveal that individual's identity; 147

(ii) Any depiction by photograph, film, videotape, or 148
printed or digital image under either of the following 149
circumstances: 150

(i) The depiction is that of a victim of an offense the 151
release of which would be, to a reasonable person of ordinary 152
sensibilities, an offensive and objectionable intrusion into the 153
victim's expectation of bodily privacy and integrity. 154

(ii) The depiction captures or depicts the victim of a 155
sexually oriented offense, as defined in section 2950.01 of the 156
Revised Code, at the actual occurrence of that offense. 157

(jj) Restricted portions of a body-worn camera or 158
dashboard camera recording; 159

(kk) In the case of a fetal-infant mortality review board 160

acting under sections 3707.70 to 3707.77 of the Revised Code, 161
records, documents, reports, or other information presented to 162
the board or a person abstracting such materials on the board's 163
behalf, statements made by review board members during board 164
meetings, all work products of the board, and data submitted by 165
the board to the department of health or a national infant death 166
review database, other than the report prepared pursuant to 167
section 3707.77 of the Revised Code. 168

(ll) Records, documents, reports, or other information 169
presented to the pregnancy-associated mortality review board 170
established under section 3738.01 of the Revised Code, 171
statements made by board members during board meetings, all work 172
products of the board, and data submitted by the board to the 173
department of health, other than the biennial reports prepared 174
under section 3738.08 of the Revised Code; 175

(mm) Except as otherwise provided in division (A) (1) (oo) 176
of this section, telephone numbers for a victim, as defined in 177
section 2930.01 of the Revised Code or a witness to a crime that 178
are listed on any law enforcement record or report. 179

(nn) A preneed funeral contract, as defined in section 180
4717.01 of the Revised Code, and contract terms and personally 181
identifying information of a preneed funeral contract, that is 182
contained in a report submitted by or for a funeral home to the 183
board of embalmers and funeral directors under division (C) of 184
section 4717.13, division (J) of section 4717.31, or section 185
4717.41 of the Revised Code. 186

(oo) Telephone numbers for a party to a motor vehicle 187
accident subject to the requirements of section 5502.11 of the 188
Revised Code that are listed on any law enforcement record or 189
report, except that the telephone numbers described in this 190

division are not excluded from the definition of "public record" 191
under this division on and after the thirtieth day after the 192
occurrence of the motor vehicle accident. 193

(pp) Records pertaining to individuals who complete 194
training under section 5502.703 of the Revised Code to be 195
permitted by a school district board of education or governing 196
body of a community school established under Chapter 3314. of 197
the Revised Code, a STEM school established under Chapter 3326. 198
of the Revised Code, or a chartered nonpublic school to convey 199
deadly weapons or dangerous ordnance into a school safety zone; 200

(qq) Education support services data, as defined in 201
section 3319.325 of the Revised Code. 202

A record that is not a public record under division (A) (1) 203
of this section and that, under law, is permanently retained 204
becomes a public record on the day that is seventy-five years 205
after the day on which the record was created, except for any 206
record protected by the attorney-client privilege, a trial 207
preparation record as defined in this section, a statement 208
prohibiting the release of identifying information signed under 209
section 3107.083 of the Revised Code, a denial of release form 210
filed pursuant to section 3107.46 of the Revised Code, or any 211
record that is exempt from release or disclosure under section 212
149.433 of the Revised Code. If the record is a birth 213
certificate and a biological parent's name redaction request 214
form has been accepted under section 3107.391 of the Revised 215
Code, the name of that parent shall be redacted from the birth 216
certificate before it is released under this paragraph. If any 217
other section of the Revised Code establishes a time period for 218
disclosure of a record that conflicts with the time period 219
specified in this section, the time period in the other section 220

prevails.	221
(2) "Confidential law enforcement investigatory record"	222
means any record that pertains to a law enforcement matter of a	223
criminal, quasi-criminal, civil, or administrative nature, but	224
only to the extent that the release of the record would create a	225
high probability of disclosure of any of the following:	226
(a) The identity of a suspect who has not been charged	227
with the offense to which the record pertains, or of an	228
information source or witness to whom confidentiality has been	229
reasonably promised;	230
(b) Information provided by an information source or	231
witness to whom confidentiality has been reasonably promised,	232
which information would reasonably tend to disclose the source's	233
or witness's identity;	234
(c) Specific confidential investigatory techniques or	235
procedures or specific investigatory work product;	236
(d) Information that would endanger the life or physical	237
safety of law enforcement personnel, a crime victim, a witness,	238
or a confidential information source.	239
(3) "Medical record" means any document or combination of	240
documents, except births, deaths, and the fact of admission to	241
or discharge from a hospital, that pertains to the medical	242
history, diagnosis, prognosis, or medical condition of a patient	243
and that is generated and maintained in the process of medical	244
treatment.	245
(4) "Trial preparation record" means any record that	246
contains information that is specifically compiled in reasonable	247
anticipation of, or in defense of, a civil or criminal action or	248
proceeding, including the independent thought processes and	249

personal trial preparation of an attorney. 250

(5) "Intellectual property record" means a record, other 251
than a financial or administrative record, that is produced or 252
collected by or for faculty or staff of a state institution of 253
higher learning in the conduct of or as a result of study or 254
research on an educational, commercial, scientific, artistic, 255
technical, or scholarly issue, regardless of whether the study 256
or research was sponsored by the institution alone or in 257
conjunction with a governmental body or private concern, and 258
that has not been publicly released, published, or patented. 259

(6) "Donor profile record" means all records about donors 260
or potential donors to a public institution of higher education 261
except the names and reported addresses of the actual donors and 262
the date, amount, and conditions of the actual donation. 263

(7) "Designated public service worker" means a peace 264
officer, parole officer, probation officer, bailiff, prosecuting 265
attorney, assistant prosecuting attorney, correctional employee, 266
county or multicounty corrections officer, community-based 267
correctional facility employee, designated Ohio national guard 268
member, protective services worker, youth services employee, 269
firefighter, EMT, medical director or member of a cooperating 270
physician advisory board of an emergency medical service 271
organization, state board of pharmacy employee, investigator of 272
the bureau of criminal identification and investigation, 273
emergency service telecommunicator, forensic mental health 274
provider, mental health evaluation provider, regional 275
psychiatric hospital employee, judge, magistrate, or federal law 276
enforcement officer. 277

(8) "Designated public service worker residential and 278
familial information" means any information that discloses any 279

of the following about a designated public service worker:	280
(a) The address of the actual personal residence of a	281
designated public service worker, except for the following	282
information:	283
(i) The address of the actual personal residence of a	284
prosecuting attorney or judge; and	285
(ii) The state or political subdivision in which a	286
designated public service worker resides.	287
(b) Information compiled from referral to or participation	288
in an employee assistance program;	289
(c) The social security number, the residential telephone	290
number, any bank account, debit card, charge card, or credit	291
card number, or the emergency telephone number of, or any	292
medical information pertaining to, a designated public service	293
worker;	294
(d) The name of any beneficiary of employment benefits,	295
including, but not limited to, life insurance benefits, provided	296
to a designated public service worker by the designated public	297
service worker's employer;	298
(e) The identity and amount of any charitable or	299
employment benefit deduction made by the designated public	300
service worker's employer from the designated public service	301
worker's compensation, unless the amount of the deduction is	302
required by state or federal law;	303
(f) The name, the residential address, the name of the	304
employer, the address of the employer, the social security	305
number, the residential telephone number, any bank account,	306
debit card, charge card, or credit card number, or the emergency	307

telephone number of the spouse, a former spouse, or any child of 308
a designated public service worker; 309

(g) A photograph of a peace officer who holds a position 310
or has an assignment that may include undercover or plain 311
clothes positions or assignments as determined by the peace 312
officer's appointing authority. 313

(9) As used in divisions (A) (7) and (15) to (17) of this 314
section: 315

"Peace officer" has the meaning defined in section 109.71 316
of the Revised Code and also includes the superintendent and 317
troopers of the state highway patrol; it does not include the 318
sheriff of a county or a supervisory employee who, in the 319
absence of the sheriff, is authorized to stand in for, exercise 320
the authority of, and perform the duties of the sheriff. 321

"Correctional employee" means any employee of the 322
department of rehabilitation and correction who in the course of 323
performing the employee's job duties has or has had contact with 324
inmates and persons under supervision. 325

"County or multicounty corrections officer" means any 326
corrections officer employed by any county or multicounty 327
correctional facility. 328

"Designated Ohio national guard member" means a member of 329
the Ohio national guard who is participating in duties related 330
to remotely piloted aircraft, including, but not limited to, 331
pilots, sensor operators, and mission intelligence personnel, 332
duties related to special forces operations, or duties related 333
to cybersecurity, and is designated by the adjutant general as a 334
designated public service worker for those purposes. 335

"Protective services worker" means any employee of a 336

county agency who is responsible for child protective services, 337
child support services, or adult protective services. 338

"Youth services employee" means any employee of the 339
department of youth services who in the course of performing the 340
employee's job duties has or has had contact with children 341
committed to the custody of the department of youth services. 342

"Firefighter" means any regular, paid or volunteer, member 343
of a lawfully constituted fire department of a municipal 344
corporation, township, fire district, or village. 345

"EMT" means EMTs-basic, EMTs-I, and paramedics that 346
provide emergency medical services for a public emergency 347
medical service organization. "Emergency medical service 348
organization," "EMT-basic," "EMT-I," and "paramedic" have the 349
meanings defined in section 4765.01 of the Revised Code. 350

"Investigator of the bureau of criminal identification and 351
investigation" has the meaning defined in section 2903.11 of the 352
Revised Code. 353

"Emergency service telecommunicator" has the meaning 354
defined in section 4742.01 of the Revised Code. 355

"Forensic mental health provider" means any employee of a 356
community mental health service provider or local alcohol, drug 357
addiction, and mental health services board who, in the course 358
of the employee's duties, has contact with persons committed to 359
a local alcohol, drug addiction, and mental health services 360
board by a court order pursuant to section 2945.38, 2945.39, 361
2945.40, or 2945.402 of the Revised Code. 362

"Mental health evaluation provider" means an individual 363
who, under Chapter 5122. of the Revised Code, examines a 364
respondent who is alleged to be a mentally ill person subject to 365

court order, as defined in section 5122.01 of the Revised Code, 366
and reports to the probate court the respondent's mental 367
condition. 368

"Regional psychiatric hospital employee" means any 369
employee of the department of mental health and addiction 370
services who, in the course of performing the employee's duties, 371
has contact with patients committed to the department of mental 372
health and addiction services by a court order pursuant to 373
section 2945.38, 2945.39, 2945.40, or 2945.402 of the Revised 374
Code. 375

"Federal law enforcement officer" has the meaning defined 376
in section 9.88 of the Revised Code. 377

(10) "Information pertaining to the recreational 378
activities of a person under the age of eighteen" means 379
information that is kept in the ordinary course of business by a 380
public office, that pertains to the recreational activities of a 381
person under the age of eighteen years, and that discloses any 382
of the following: 383

(a) The address or telephone number of a person under the 384
age of eighteen or the address or telephone number of that 385
person's parent, guardian, custodian, or emergency contact 386
person; 387

(b) The social security number, birth date, or 388
photographic image of a person under the age of eighteen; 389

(c) Any medical record, history, or information pertaining 390
to a person under the age of eighteen; 391

(d) Any additional information sought or required about a 392
person under the age of eighteen for the purpose of allowing 393
that person to participate in any recreational activity 394

conducted or sponsored by a public office or to use or obtain 395
admission privileges to any recreational facility owned or 396
operated by a public office. 397

(11) "Community control sanction" has the meaning defined 398
in section 2929.01 of the Revised Code. 399

(12) "Post-release control sanction" has the meaning 400
defined in section 2967.01 of the Revised Code. 401

(13) "Redaction" means obscuring or deleting any 402
information that is exempt from the duty to permit public 403
inspection or copying from an item that otherwise meets the 404
definition of a "record" in section 149.011 of the Revised Code. 405

(14) "Designee," "elected official," and "future official" 406
have the meanings defined in section 109.43 of the Revised Code. 407

(15) "Body-worn camera" means a visual and audio recording 408
device worn on the person of a peace officer while the peace 409
officer is engaged in the performance of the peace officer's 410
duties. 411

(16) "Dashboard camera" means a visual and audio recording 412
device mounted on a peace officer's vehicle or vessel that is 413
used while the peace officer is engaged in the performance of 414
the peace officer's duties. 415

(17) "Restricted portions of a body-worn camera or 416
dashboard camera recording" means any visual or audio portion of 417
a body-worn camera or dashboard camera recording that shows, 418
communicates, or discloses any of the following: 419

(a) The image or identity of a child or information that 420
could lead to the identification of a child who is a primary 421
subject of the recording when the law enforcement agency knows 422

or has reason to know the person is a child based on the law 423
enforcement agency's records or the content of the recording; 424

(b) The death of a person or a deceased person's body, 425
unless the death was caused by a peace officer or, subject to 426
division (H)(1) of this section, the consent of the decedent's 427
executor or administrator has been obtained; 428

(c) The death of a peace officer, firefighter, paramedic, 429
or other first responder, occurring while the decedent was 430
engaged in the performance of official duties, unless, subject 431
to division (H)(1) of this section, the consent of the 432
decedent's executor or administrator has been obtained; 433

(d) Grievous bodily harm, unless the injury was effected 434
by a peace officer or, subject to division (H)(1) of this 435
section, the consent of the injured person or the injured 436
person's guardian has been obtained; 437

(e) An act of severe violence against a person that 438
results in serious physical harm to the person, unless the act 439
and injury was effected by a peace officer or, subject to 440
division (H)(1) of this section, the consent of the injured 441
person or the injured person's guardian has been obtained; 442

(f) Grievous bodily harm to a peace officer, firefighter, 443
paramedic, or other first responder, occurring while the injured 444
person was engaged in the performance of official duties, 445
unless, subject to division (H)(1) of this section, the consent 446
of the injured person or the injured person's guardian has been 447
obtained; 448

(g) An act of severe violence resulting in serious 449
physical harm against a peace officer, firefighter, paramedic, 450
or other first responder, occurring while the injured person was 451

engaged in the performance of official duties, unless, subject 452
to division (H) (1) of this section, the consent of the injured 453
person or the injured person's guardian has been obtained; 454

(h) A person's nude body, unless, subject to division (H) 455
(1) of this section, the person's consent has been obtained; 456

(i) Protected health information, the identity of a person 457
in a health care facility who is not the subject of a law 458
enforcement encounter, or any other information in a health care 459
facility that could identify a person who is not the subject of 460
a law enforcement encounter; 461

(j) Information that could identify the alleged victim of 462
a sex offense, menacing by stalking, or domestic violence; 463

(k) Information, that does not constitute a confidential 464
law enforcement investigatory record, that could identify a 465
person who provides sensitive or confidential information to a 466
law enforcement agency when the disclosure of the person's 467
identity or the information provided could reasonably be 468
expected to threaten or endanger the safety or property of the 469
person or another person; 470

(l) Personal information of a person who is not arrested, 471
cited, charged, or issued a written warning by a peace officer; 472

(m) Proprietary police contingency plans or tactics that 473
are intended to prevent crime and maintain public order and 474
safety; 475

(n) A personal conversation unrelated to work between 476
peace officers or between a peace officer and an employee of a 477
law enforcement agency; 478

(o) A conversation between a peace officer and a member of 479

the public that does not concern law enforcement activities; 480

(p) The interior of a residence, unless the interior of a 481
residence is the location of an adversarial encounter with, or a 482
use of force by, a peace officer; 483

(q) Any portion of the interior of a private business that 484
is not open to the public, unless an adversarial encounter with, 485
or a use of force by, a peace officer occurs in that location. 486

As used in division (A) (17) of this section: 487

"Grievous bodily harm" has the same meaning as in section 488
5924.120 of the Revised Code. 489

"Health care facility" has the same meaning as in section 490
1337.11 of the Revised Code. 491

"Protected health information" has the same meaning as in 492
45 C.F.R. 160.103. 493

"Law enforcement agency" has the same meaning as in 494
section 2925.61 of the Revised Code. 495

"Personal information" means any government-issued 496
identification number, date of birth, address, financial 497
information, or criminal justice information from the law 498
enforcement automated data system or similar databases. 499

"Sex offense" has the same meaning as in section 2907.10 500
of the Revised Code. 501

"Firefighter," "paramedic," and "first responder" have the 502
same meanings as in section 4765.01 of the Revised Code. 503

(B) (1) Upon request by any person and subject to division 504
(B) (8) of this section, all public records responsive to the 505
request shall be promptly prepared and made available for 506

inspection to the requester at all reasonable times during 507
regular business hours. Subject to division (B)(8) of this 508
section, upon request by any person, a public office or person 509
responsible for public records shall make copies of the 510
requested public record available to the requester at cost and 511
within a reasonable period of time. If a public record contains 512
information that is exempt from the duty to permit public 513
inspection or to copy the public record, the public office or 514
the person responsible for the public record shall make 515
available all of the information within the public record that 516
is not exempt. When making that public record available for 517
public inspection or copying that public record, the public 518
office or the person responsible for the public record shall 519
notify the requester of any redaction or make the redaction 520
plainly visible. A redaction shall be deemed a denial of a 521
request to inspect or copy the redacted information, except if 522
federal or state law authorizes or requires a public office to 523
make the redaction. 524

(2) To facilitate broader access to public records, a 525
public office or the person responsible for public records shall 526
organize and maintain public records in a manner that they can 527
be made available for inspection or copying in accordance with 528
division (B) of this section. A public office also shall have 529
available a copy of its current records retention schedule at a 530
location readily available to the public. If a requester makes 531
an ambiguous or overly broad request or has difficulty in making 532
a request for copies or inspection of public records under this 533
section such that the public office or the person responsible 534
for the requested public record cannot reasonably identify what 535
public records are being requested, the public office or the 536
person responsible for the requested public record may deny the 537

request but shall provide the requester with an opportunity to 538
revise the request by informing the requester of the manner in 539
which records are maintained by the public office and accessed 540
in the ordinary course of the public office's or person's 541
duties. 542

(3) If a request is ultimately denied, in part or in 543
whole, the public office or the person responsible for the 544
requested public record shall provide the requester with an 545
explanation, including legal authority, setting forth why the 546
request was denied. If the initial request was provided in 547
writing, the explanation also shall be provided to the requester 548
in writing. The explanation shall not preclude the public office 549
or the person responsible for the requested public record from 550
relying upon additional reasons or legal authority in defending 551
an action commenced under division (C) of this section. 552

(4) Unless specifically required or authorized by state or 553
federal law or in accordance with division (B) of this section, 554
no public office or person responsible for public records may 555
limit or condition the availability of public records by 556
requiring disclosure of the requester's identity or the intended 557
use of the requested public record. Any requirement that the 558
requester disclose the requester's identity or the intended use 559
of the requested public record constitutes a denial of the 560
request. 561

(5) A public office or person responsible for public 562
records may ask a requester to make the request in writing, may 563
ask for the requester's identity, and may inquire about the 564
intended use of the information requested, but may do so only 565
after disclosing to the requester that a written request is not 566
mandatory, that the requester may decline to reveal the 567

requester's identity or the intended use, and when a written 568
request or disclosure of the identity or intended use would 569
benefit the requester by enhancing the ability of the public 570
office or person responsible for public records to identify, 571
locate, or deliver the public records sought by the requester. 572

(6) If any person requests a copy of a public record in 573
accordance with division (B) of this section, the public office 574
or person responsible for the public record may require the 575
requester to pay in advance the cost involved in providing the 576
copy of the public record in accordance with the choice made by 577
the requester under this division. The public office or the 578
person responsible for the public record shall permit the 579
requester to choose to have the public record duplicated upon 580
paper, upon the same medium upon which the public office or 581
person responsible for the public record keeps it, or upon any 582
other medium upon which the public office or person responsible 583
for the public record determines that it reasonably can be 584
duplicated as an integral part of the normal operations of the 585
public office or person responsible for the public record. When 586
the requester makes a choice under this division, the public 587
office or person responsible for the public record shall provide 588
a copy of it in accordance with the choice made by the 589
requester. Nothing in this section requires a public office or 590
person responsible for the public record to allow the requester 591
of a copy of the public record to make the copies of the public 592
record. 593

(7) (a) Upon a request made in accordance with division (B) 594
of this section and subject to division (B) (6) of this section, 595
a public office or person responsible for public records shall 596
transmit a copy of a public record to any person by United 597
States mail or by any other means of delivery or transmission 598

within a reasonable period of time after receiving the request 599
for the copy. The public office or person responsible for the 600
public record may require the person making the request to pay 601
in advance the cost of postage if the copy is transmitted by 602
United States mail or the cost of delivery if the copy is 603
transmitted other than by United States mail, and to pay in 604
advance the costs incurred for other supplies used in the 605
mailing, delivery, or transmission. 606

(b) Any public office may adopt a policy and procedures 607
that it will follow in transmitting, within a reasonable period 608
of time after receiving a request, copies of public records by 609
United States mail or by any other means of delivery or 610
transmission pursuant to division (B) (7) of this section. A 611
public office that adopts a policy and procedures under division 612
(B) (7) of this section shall comply with them in performing its 613
duties under that division. 614

(c) In any policy and procedures adopted under division 615
(B) (7) of this section: 616

(i) A public office may limit the number of records 617
requested by a person that the office will physically deliver by 618
United States mail or by another delivery service to ten per 619
month, unless the person certifies to the office in writing that 620
the person does not intend to use or forward the requested 621
records, or the information contained in them, for commercial 622
purposes; 623

(ii) A public office that chooses to provide some or all 624
of its public records on a web site that is fully accessible to 625
and searchable by members of the public at all times, other than 626
during acts of God outside the public office's control or 627
maintenance, and that charges no fee to search, access, 628

download, or otherwise receive records provided on the web site, 629
may limit to ten per month the number of records requested by a 630
person that the office will deliver in a digital format, unless 631
the requested records are not provided on the web site and 632
unless the person certifies to the office in writing that the 633
person does not intend to use or forward the requested records, 634
or the information contained in them, for commercial purposes. 635

(iii) For purposes of division (B) (7) of this section, 636
"commercial" shall be narrowly construed and does not include 637
reporting or gathering news, reporting or gathering information 638
to assist citizen oversight or understanding of the operation or 639
activities of government, or nonprofit educational research. 640

(8) A public office or person responsible for public 641
records is not required to permit a person who is incarcerated 642
pursuant to a criminal conviction or a juvenile adjudication to 643
inspect or to obtain a copy of any public record concerning a 644
criminal investigation or prosecution or concerning what would 645
be a criminal investigation or prosecution if the subject of the 646
investigation or prosecution were an adult, unless the request 647
to inspect or to obtain a copy of the record is for the purpose 648
of acquiring information that is subject to release as a public 649
record under this section and the judge who imposed the sentence 650
or made the adjudication with respect to the person, or the 651
judge's successor in office, finds that the information sought 652
in the public record is necessary to support what appears to be 653
a justiciable claim of the person. 654

(9) (a) Upon written request made and signed by a 655
journalist, a public office, or person responsible for public 656
records, having custody of the records of the agency employing a 657
specified designated public service worker shall disclose to the 658

journalist the address of the actual personal residence of the 659
designated public service worker and, if the designated public 660
service worker's spouse, former spouse, or child is employed by 661
a public office, the name and address of the employer of the 662
designated public service worker's spouse, former spouse, or 663
child. The request shall include the journalist's name and title 664
and the name and address of the journalist's employer and shall 665
state that disclosure of the information sought would be in the 666
public interest. 667

(b) Division (B) (9) (a) of this section also applies to 668
journalist requests for: 669

(i) Customer information maintained by a municipally owned 670
or operated public utility, other than social security numbers 671
and any private financial information such as credit reports, 672
payment methods, credit card numbers, and bank account 673
information; 674

(ii) Information about minors involved in a school vehicle 675
accident as provided in division (A) (1) (gg) of this section, 676
other than personal information as defined in section 149.45 of 677
the Revised Code. 678

(c) As used in division (B) (9) of this section, 679
"journalist" means a person engaged in, connected with, or 680
employed by any news medium, including a newspaper, magazine, 681
press association, news agency, or wire service, a radio or 682
television station, or a similar medium, for the purpose of 683
gathering, processing, transmitting, compiling, editing, or 684
disseminating information for the general public. 685

(10) Upon a request made by a victim, victim's attorney, 686
or victim's representative, as that term is used in section 687

2930.02 of the Revised Code, a public office or person 688
responsible for public records shall transmit a copy of a 689
depiction of the victim as described in division (A) (1) (ii) of 690
this section to the victim, victim's attorney, or victim's 691
representative. 692

(C) (1) If a person allegedly is aggrieved by the failure 693
of a public office or the person responsible for public records 694
to promptly prepare a public record and to make it available to 695
the person for inspection in accordance with division (B) of 696
this section or by any other failure of a public office or the 697
person responsible for public records to comply with an 698
obligation in accordance with division (B) of this section, the 699
person allegedly aggrieved may do only one of the following, and 700
not both: 701

(a) File a complaint with the clerk of the court of claims 702
or the clerk of the court of common pleas under section 2743.75 703
of the Revised Code; 704

(b) Commence a mandamus action to obtain a judgment that 705
orders the public office or the person responsible for the 706
public record to comply with division (B) of this section, that 707
awards court costs and reasonable attorney's fees to the person 708
that instituted the mandamus action, and, if applicable, that 709
includes an order fixing statutory damages under division (C) (2) 710
of this section. The mandamus action may be commenced in the 711
court of common pleas of the county in which division (B) of 712
this section allegedly was not complied with, in the supreme 713
court pursuant to its original jurisdiction under Section 2 of 714
Article IV, Ohio Constitution, or in the court of appeals for 715
the appellate district in which division (B) of this section 716
allegedly was not complied with pursuant to its original 717

jurisdiction under Section 3 of Article IV, Ohio Constitution. 718

(2) If a requester transmits a written request by hand 719
delivery, electronic submission, or certified mail to inspect or 720
receive copies of any public record in a manner that fairly 721
describes the public record or class of public records to the 722
public office or person responsible for the requested public 723
records, except as otherwise provided in this section, the 724
requester shall be entitled to recover the amount of statutory 725
damages set forth in this division if a court determines that 726
the public office or the person responsible for public records 727
failed to comply with an obligation in accordance with division 728
(B) of this section. 729

The amount of statutory damages shall be fixed at one 730
hundred dollars for each business day during which the public 731
office or person responsible for the requested public records 732
failed to comply with an obligation in accordance with division 733
(B) of this section, beginning with the day on which the 734
requester files a mandamus action to recover statutory damages, 735
up to a maximum of one thousand dollars. The award of statutory 736
damages shall not be construed as a penalty, but as compensation 737
for injury arising from lost use of the requested information. 738
The existence of this injury shall be conclusively presumed. The 739
award of statutory damages shall be in addition to all other 740
remedies authorized by this section. 741

The court may reduce an award of statutory damages or not 742
award statutory damages if the court determines both of the 743
following: 744

(a) That, based on the ordinary application of statutory 745
law and case law as it existed at the time of the conduct or 746
threatened conduct of the public office or person responsible 747

for the requested public records that allegedly constitutes a 748
failure to comply with an obligation in accordance with division 749
(B) of this section and that was the basis of the mandamus 750
action, a well-informed public office or person responsible for 751
the requested public records reasonably would believe that the 752
conduct or threatened conduct of the public office or person 753
responsible for the requested public records did not constitute 754
a failure to comply with an obligation in accordance with 755
division (B) of this section; 756

(b) That a well-informed public office or person 757
responsible for the requested public records reasonably would 758
believe that the conduct or threatened conduct of the public 759
office or person responsible for the requested public records 760
would serve the public policy that underlies the authority that 761
is asserted as permitting that conduct or threatened conduct. 762

(3) In a mandamus action filed under division (C) (1) of 763
this section, the following apply: 764

(a) (i) If the court orders the public office or the person 765
responsible for the public record to comply with division (B) of 766
this section, the court shall determine and award to the relator 767
all court costs, which shall be construed as remedial and not 768
punitive. 769

(ii) If the court makes a determination described in 770
division (C) (3) (b) (iii) of this section, the court shall 771
determine and award to the relator all court costs, which shall 772
be construed as remedial and not punitive. 773

(b) If the court renders a judgment that orders the public 774
office or the person responsible for the public record to comply 775
with division (B) of this section or if the court determines any 776

of the following, the court may award reasonable attorney's fees 777
to the relator, subject to division (C) (4) of this section: 778

(i) The public office or the person responsible for the 779
public records failed to respond affirmatively or negatively to 780
the public records request in accordance with the time allowed 781
under division (B) of this section. 782

(ii) The public office or the person responsible for the 783
public records promised to permit the relator to inspect or 784
receive copies of the public records requested within a 785
specified period of time but failed to fulfill that promise 786
within that specified period of time. 787

(iii) The public office or the person responsible for the 788
public records acted in bad faith when the office or person 789
voluntarily made the public records available to the relator for 790
the first time after the relator commenced the mandamus action, 791
but before the court issued any order concluding whether or not 792
the public office or person was required to comply with division 793
(B) of this section. No discovery may be conducted on the issue 794
of the alleged bad faith of the public office or person 795
responsible for the public records. This division shall not be 796
construed as creating a presumption that the public office or 797
the person responsible for the public records acted in bad faith 798
when the office or person voluntarily made the public records 799
available to the relator for the first time after the relator 800
commenced the mandamus action, but before the court issued any 801
order described in this division. 802

(c) The court shall not award attorney's fees to the 803
relator if the court determines both of the following: 804

(i) That, based on the ordinary application of statutory 805

law and case law as it existed at the time of the conduct or 806
threatened conduct of the public office or person responsible 807
for the requested public records that allegedly constitutes a 808
failure to comply with an obligation in accordance with division 809
(B) of this section and that was the basis of the mandamus 810
action, a well-informed public office or person responsible for 811
the requested public records reasonably would believe that the 812
conduct or threatened conduct of the public office or person 813
responsible for the requested public records did not constitute 814
a failure to comply with an obligation in accordance with 815
division (B) of this section; 816

(ii) That a well-informed public office or person 817
responsible for the requested public records reasonably would 818
believe that the conduct or threatened conduct of the public 819
office or person responsible for the requested public records 820
would serve the public policy that underlies the authority that 821
is asserted as permitting that conduct or threatened conduct. 822

(4) All of the following apply to any award of reasonable 823
attorney's fees awarded under division (C) (3) (b) of this 824
section: 825

(a) The fees shall be construed as remedial and not 826
punitive. 827

(b) The fees awarded shall not exceed the total of the 828
reasonable attorney's fees incurred before the public record was 829
made available to the relator and the fees described in division 830
(C) (4) (c) of this section. 831

(c) Reasonable attorney's fees shall include reasonable 832
fees incurred to produce proof of the reasonableness and amount 833
of the fees and to otherwise litigate entitlement to the fees. 834

(d) The court may reduce the amount of fees awarded if the court determines that, given the factual circumstances involved with the specific public records request, an alternative means should have been pursued to more effectively and efficiently resolve the dispute that was subject to the mandamus action filed under division (C) (1) of this section.

(5) If the court does not issue a writ of mandamus under division (C) of this section and the court determines at that time that the bringing of the mandamus action was frivolous conduct as defined in division (A) of section 2323.51 of the Revised Code, the court may award to the public office all court costs, expenses, and reasonable attorney's fees, as determined by the court.

(D) Chapter 1347. of the Revised Code does not limit the provisions of this section.

(E) (1) To ensure that all employees of public offices are appropriately educated about a public office's obligations under division (B) of this section, all elected officials or their appropriate designees shall attend training approved by the attorney general as provided in section 109.43 of the Revised Code. A future official may satisfy the requirements of this division by attending the training before taking office, provided that the future official may not send a designee in the future official's place.

(2) All public offices shall adopt a public records policy in compliance with this section for responding to public records requests. In adopting a public records policy under this division, a public office may obtain guidance from the model public records policy developed and provided to the public office by the attorney general under section 109.43 of the

Revised Code. Except as otherwise provided in this section, the 865
policy may not limit the number of public records that the 866
public office will make available to a single person, may not 867
limit the number of public records that it will make available 868
during a fixed period of time, and may not establish a fixed 869
period of time before it will respond to a request for 870
inspection or copying of public records, unless that period is 871
less than eight hours. 872

The public office shall distribute the public records 873
policy adopted by the public office under this division to the 874
employee of the public office who is the records custodian or 875
records manager or otherwise has custody of the records of that 876
office. The public office shall require that employee to 877
acknowledge receipt of the copy of the public records policy. 878
The public office shall create a poster that describes its 879
public records policy and shall post the poster in a conspicuous 880
place in the public office and in all locations where the public 881
office has branch offices. The public office may post its public 882
records policy on the internet web site of the public office if 883
the public office maintains an internet web site. A public 884
office that has established a manual or handbook of its general 885
policies and procedures for all employees of the public office 886
shall include the public records policy of the public office in 887
the manual or handbook. 888

(F) (1) The bureau of motor vehicles may adopt rules 889
pursuant to Chapter 119. of the Revised Code to reasonably limit 890
the number of bulk commercial special extraction requests made 891
by a person for the same records or for updated records during a 892
calendar year. The rules may include provisions for charges to 893
be made for bulk commercial special extraction requests for the 894
actual cost of the bureau, plus special extraction costs, plus 895

ten per cent. The bureau may charge for expenses for redacting 896
information, the release of which is prohibited by law. 897

(2) As used in division (F)(1) of this section: 898

(a) "Actual cost" means the cost of depleted supplies, 899
records storage media costs, actual mailing and alternative 900
delivery costs, or other transmitting costs, and any direct 901
equipment operating and maintenance costs, including actual 902
costs paid to private contractors for copying services. 903

(b) "Bulk commercial special extraction request" means a 904
request for copies of a record for information in a format other 905
than the format already available, or information that cannot be 906
extracted without examination of all items in a records series, 907
class of records, or database by a person who intends to use or 908
forward the copies for surveys, marketing, solicitation, or 909
resale for commercial purposes. "Bulk commercial special 910
extraction request" does not include a request by a person who 911
gives assurance to the bureau that the person making the request 912
does not intend to use or forward the requested copies for 913
surveys, marketing, solicitation, or resale for commercial 914
purposes. 915

(c) "Commercial" means profit-seeking production, buying, 916
or selling of any good, service, or other product. 917

(d) "Special extraction costs" means the cost of the time 918
spent by the lowest paid employee competent to perform the task, 919
the actual amount paid to outside private contractors employed 920
by the bureau, or the actual cost incurred to create computer 921
programs to make the special extraction. "Special extraction 922
costs" include any charges paid to a public agency for computer 923
or records services. 924

(3) For purposes of divisions (F) (1) and (2) of this section, "surveys, marketing, solicitation, or resale for commercial purposes" shall be narrowly construed and does not include reporting or gathering news, reporting or gathering information to assist citizen oversight or understanding of the operation or activities of government, or nonprofit educational research.

(G) A request by a defendant, counsel of a defendant, or any agent of a defendant in a criminal action that public records related to that action be made available under this section shall be considered a demand for discovery pursuant to the Criminal Rules, except to the extent that the Criminal Rules plainly indicate a contrary intent. The defendant, counsel of the defendant, or agent of the defendant making a request under this division shall serve a copy of the request on the prosecuting attorney, director of law, or other chief legal officer responsible for prosecuting the action.

(H) (1) Any portion of a body-worn camera or dashboard camera recording described in divisions (A) (17) (b) to (h) of this section may be released by consent of the subject of the recording or a representative of that person, as specified in those divisions, only if either of the following applies:

(a) The recording will not be used in connection with any probable or pending criminal proceedings;

(b) The recording has been used in connection with a criminal proceeding that was dismissed or for which a judgment has been entered pursuant to Rule 32 of the Rules of Criminal Procedure, and will not be used again in connection with any probable or pending criminal proceedings.

(2) If a public office denies a request to release a restricted portion of a body-worn camera or dashboard camera recording, as defined in division (A) (17) of this section, any person may file a mandamus action pursuant to this section or a complaint with the clerk of the court of claims pursuant to section 2743.75 of the Revised Code, requesting the court to order the release of all or portions of the recording. If the court considering the request determines that the filing articulates by clear and convincing evidence that the public interest in the recording substantially outweighs privacy interests and other interests asserted to deny release, the court shall order the public office to release the recording.

Sec. 3319.324. As used in sections 3319.324, 3319.325, and 3319.326 of the Revised Code:

(A) "Education records" means records, files, documents, and other materials that contain information directly related to a student and are maintained by a school district board of education or by a person acting for the school district.
"Educational records" does not include any of the following:

(1) Records of instructional, supervisory, and administrative personnel and educational personnel that are in the sole possession of the maker and are not accessible or revealed to any other person except a substitute teacher;

(2) In the case of persons who are employed by a school district, records made and maintained in the normal course of business that relate exclusively to such person in that person's capacity as an employee and are not available for use for any other purpose;

(3) Records on a student who is eighteen years of age or

older, which are made or maintained by a physician, 983
psychiatrist, psychologist, or other recognized professional or 984
paraprofessional acting in the person's professional or 985
paraprofessional capacity, or assisting in that capacity, and 986
that are made, maintained, or used only in connection with the 987
provision of treatment to the student and are not available to 988
anyone other than persons providing such treatment, except that 989
such records can be personally reviewed by a physician or other 990
appropriate professional of the student's choice. 991

(B) "Education support services data" means data on 992
individuals collected, created, maintained, used, or 993
disseminated relating to programs administered by a school 994
district board of education or an entity under contract with a 995
school district designed to eliminate disparities and advance 996
equities in educational achievement for youth by coordinating 997
services available to participants, regardless of the youth's 998
involvement with other government services. 999

(C) "School-issued device" means hardware or software that 1000
a school district, acting independently or with a technology 1001
provider, provides to an individual student for that student's 1002
dedicated personal use. 1003

(D) "Student" means an individual currently or formerly 1004
enrolled in a school district and applicants for enrollment. 1005

(E) "Technology provider" means a person who contracts 1006
with a school district to provide a school-issued device for 1007
student use and creates, receives, or maintains education 1008
records pursuant or incidental to its contract with the 1009
district. 1010

Sec. 3319.325. A technology provider shall comply with 1011

Chapter 1347. of the Revised Code with regard to the collection, 1012
use, and protection of data as if it were a school district. 1013

(A) Education records created, received, maintained, or 1014
disseminated by a technology provider pursuant or incidental to 1015
a contract with a school district are solely the property of the 1016
school district. 1017

(B) If education records maintained by the technology 1018
provider are subject to a breach of the security of the data, as 1019
described in section 1347.12 of the Revised Code, the technology 1020
provider shall, following discovery of the breach, disclose to 1021
the school district all information necessary to fulfill the 1022
requirements of that section. 1023

(C) Unless renewal of the contract is reasonably 1024
anticipated, within ninety days of the expiration of the 1025
contract, a technology provider shall destroy or return to the 1026
appropriate school district all education records created, 1027
received, or maintained pursuant or incidental to the contract. 1028

(D) A technology provider shall not sell, share, or 1029
disseminate education records, except as provided by this 1030
section or as part of a valid delegation or assignment of its 1031
contract with a school district. 1032

(E) A technology provider shall not use educational data 1033
for any commercial purpose, including, but not limited to, 1034
marketing or advertising to a student or parent. A commercial 1035
purpose does not include providing the specific services 1036
contracted for by a school district. Nothing in this division 1037
prohibits the technology provider from using aggregate 1038
information removed of any personally identifiable information 1039
for improving, maintaining, developing, supporting, or 1040

diagnosing the provider's site, service, or operation. 1041

(F) A contract between a technology provider and a school district shall ensure appropriate security safeguards for educational data and include both of the following: 1042
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(1) A restriction on unauthorized access by the technology provider's employees or contractors; 1045
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(2) A requirement that the technology provider's employees or contractors may be authorized to access education records only as necessary to fulfill the official duties of the employee or contractor. 1047
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(G) Not later than the first day of August of each school year, each school district shall provide parents and students direct and timely notice, by mail, electronic mail, or other direct form of communication, of any curriculum, testing, or assessment technology provider contract affecting a student's education records. The notice shall do all of the following: 1051
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(1) Identify each curriculum, testing, or assessment technology provider with access to education records; 1057
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(2) Identify the education records affected by the curriculum, testing, or assessment technology provider contract; 1059
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(3) Include information about the contract inspection and provide contact information for a school department to which a parent or student may direct questions or concerns regarding any program or activity that allows a curriculum, testing, or assessment technology provider access to a student's education records. 1061
1062
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Each school district shall provide parents and students an opportunity to inspect a complete copy of any contract with a 1067
1068

technology provider. 1069

Sec. 3319.326. (A) Except as described in division (B) of 1070
this section, a school district or technology provider shall not 1071
electronically access or monitor any of the following: 1072

(1) Location-tracking features of a school-issued device; 1073

(2) Audio or visual receiving, transmitting, or recording 1074
feature of a school-issued device; 1075

(3) Student interactions with a school-issued device, 1076
including, but not limited to, keystrokes and web-browsing 1077
activity. 1078

(B) Division (A) of this section does not apply in the 1079
following circumstances: 1080

(1) The activity is limited to a noncommercial educational 1081
purpose for instruction, technical support, or exam-proctoring 1082
by school district employees, student teachers, staff contracted 1083
by a district, a vendor, or the department of education, and 1084
notice is provided in advance. 1085

(2) The activity is permitted under a judicial warrant. 1086

(3) The school district or technology provider is notified 1087
or becomes aware that the device is missing or stolen. 1088

(4) The activity is necessary to respond to an imminent 1089
threat to life or safety, and the access is limited to that 1090
purpose. 1091

(5) The activity is necessary to comply with federal or 1092
state law. 1093

(6) The activity is necessary to participate in federal or 1094
state funding programs. 1095

(C) If a school district or technology provider interacts 1096
with a school-issued device in the manner prescribed by division 1097
(B) of this section, it shall, within seventy-two hours of the 1098
access, notify the student to whom the school-issued device was 1099
issued or that student's parent and provide a written 1100
description of the interaction, including which features of the 1101
device were accessed and a description of the threat, if any. 1102
This notice is not required at any time when the notice itself 1103
would pose an imminent threat to life or safety, but must 1104
instead be given within seventy-two hours after that imminent 1105
threat has ceased. 1106

Unless otherwise provided by law, no person shall release, 1107
or permit access to, educational support services data 1108
concerning any student attending a public school for any 1109
purpose. 1110

Section 2. That existing section 149.43 of the Revised 1111
Code is hereby repealed. 1112