



COMMONWEALTH of VIRGINIA
Department of Education

DATE: October 5, 2018

TO: Division Superintendents

FROM: James F. Lane, Ed.D., Superintendent of Public Instruction

SUBJECT: Legislation Regarding the Collection and Dissemination of Student Information

This memorandum provides information in response to inquiries from several school divisions regarding three bills passed by the 2018 General Assembly that became effective July 1, 2018, and impact school division practices for collecting and disseminating student information.

Release of Student Information

[HB 1](#) (Wilt) and [SB 512](#) (Suetterlein) address the dissemination of student addresses, telephone numbers, and email addresses.

HB 1 and SB512 collectively prohibit school divisions from disclosing the address, telephone number or email address of a student unless the parent or eligible student (students 18 years of age or older or under the age of 18 and emancipated) has consented to the disclosure of this information in writing.

In addition, HB 1 and the federal regulations implementing the *Family Educational Rights and Privacy Act*, at [34 CFR 99.31 \(a\)\(11\)](#) and [34 CFR 99.37\(a\)](#), permit the release of other information that the school has deemed to be student directory information, provided that the school division has provided parents or eligible students with notice of: (i) the types of information the school has designated as directory information; (ii) the right of the parent or eligible student to refuse the designation of any or all of the types of information about the student as directory information; and (iii) the period of time within which the parent or eligible student must notify the school in writing that he does not want any or all of the types of information about the student designated as directory information.

Requests from recruiters for Armed Forces and Institutions of Higher Education. Despite these changes to state law, the *Every Student Succeeds Act (ESSA)*, at [20 USC 7908](#), continues to require secondary schools to provide, upon request made by a military recruiter or an institution of higher education, access to student names, addresses, and telephone numbers, unless the parent has opted out of the release of such information. School divisions are also required to notify parents of their option to opt-out in accordance with the law.

Collection of Student Information about Race and Ethnicity

[SB 238](#) (DeSteph) addresses the collection of race and ethnicity information about students. This legislation provides that students or parents shall not be required to disclose information about their race or ethnicity unless: (i) an option is provided to designate “other” as the student’s race or ethnicity; or (ii) the disclosure is required by federal law.

ESSA, at [20 USC 6311 \(c\)\(2\)\(B\)](#) requires state school accountability systems to aggregate data based upon major racial and ethnic categories of students, requiring school divisions to continue to collect race and ethnicity information. The U.S. Department of Education (USDE) published its [Final Guidance on Maintaining, Collecting, and Reporting Racial and Ethnic Data to the U.S. Department of Education](#) in 2007 to establish a consistent standard for identification of students in major racial and ethnic categories. USDE also published [Managing an Identity Crisis](#) to provide additional technical assistance with implementing the guidance. These documents outline the data collection procedures that school divisions should implement on forms used to gather ethnicity or race information needed for each state’s federal accountability system.

The Virginia Department of Education, through its [Student Record Collection](#) (SRC), collects race and ethnicity information from local school divisions to comply with these federal requirements. School divisions should consult the federal guidance and the *Managing an Identity Crisis* document to review the forms used to collect race and ethnicity information for the SRC. Federal guidance provides that individuals must be allowed to select one or more race categories. The guidance does not permit an option of “other” or “race unknown.” For any other information a school division collects, SB 238 provides that school divisions shall not require parents or students to disclose information about their race or ethnicity, unless an option is provided to designate “other” as the student’s race or ethnicity.

Please direct inquiries regarding the Student Records Collection to resultshelp@doe.virginia.gov or (804) 225-3918. For any other questions related to this legislation, please contact the Policy office at policy@doe.virginia.gov or (804)225-2092.

JFL/zlr