

2014 -- S 2095 SUBSTITUTE A AS AMENDED

=====
LC003479/SUB A/3
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

A N A C T

RELATING TO EDUCATION AND LABOR - SOCIAL MEDIA PRIVACY AND STUDENT
DATA - CLOUD COMPUTING

Introduced By: Senators Ruggerio, Miller, Lynch, Jabour, and Satchell

Date Introduced: January 21, 2014

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 16 of the General Laws entitled "EDUCATION" is hereby amended
2 by adding thereto the following chapter:

3 CHAPTER 103

4 STUDENT SOCIAL MEDIA PRIVACY

5 **16-103-1. Definitions. --** For the purposes of this chapter:

6 (1) "Social media account" means an electronic service or account, or electronic content,
7 including, but not limited to, videos, still photographs, blogs, video blogs, podcasts, instant and
8 text messages, email, online service or accounts, or internet website profiles or locations. For the
9 purposes of this chapter, social media account does not include an account opened at a school's
10 behest, or provided by the school, or intended to be used primarily on behalf of the school.

11 (2) "Applicant" means an applicant for admission to an educational institution.

12 (3) "Educational institution" or "school" means a private or public institution that offers
13 participants, students, or trainees an organized course of study or training that is academic,
14 technical, trade-oriented, or preparatory for gainful employment in a recognized occupation and
15 shall include any person acting as an agent of the institution.

16 (4) "Student" means any student, participant, or trainee, whether full-time or part-time, in
17 an organized course of study at an educational institution.

18 **16-103-2. Social media password requests prohibited. --** No educational institution

1 shall:

2 (1) Require, coerce, or request a student or prospective student to disclose the password
3 or any other means for accessing a personal social media account;

4 (2) Require, coerce, or request a student or prospective student to access a personal social
5 media account in the presence of the educational institution's employee or representative; or

6 (3) Require or coerce a student or prospective student to divulge any personal social
7 media account information.

8 **16-103-3. Social media access requests prohibited.** -- No educational institution shall
9 compel a student or applicant, as a condition of acceptance or participation in curricular or
10 extracurricular activities, to add anyone, including a coach, teacher, school administrator, or other
11 school employee or school volunteer, to his or her list of contacts associated with a personal
12 social media account or require, request, or cause a student or applicant to alter settings that affect
13 a third party's ability to view the contents of a personal social media account.

14 **16-103-4. Disciplinary action prohibited.** -- No educational institution shall:

15 (1) Discharge, discipline, or otherwise penalize or threaten to discharge, discipline, or
16 otherwise penalize any student for a student's refusal to disclose or provide access to any
17 information specified in § 16-103-2, or for refusal to add a coach, teacher, administrator, or other
18 school employee or school volunteer to his or her list of contacts associated with a personal social
19 media account, or to alter settings associated with a personal social media account, as specified in
20 § 16-103-3; or

21 (2) Fail or refuse to admit any applicant as a result of the applicant's refusal to disclose or
22 provide access to any information specified in § 16-103-2 or for refusal to add a coach, teacher,
23 school administrator, or other school employee or school volunteer to his or her list of contacts
24 associated with a personal social media account or to alter settings associated with a personal
25 social media account, as specified in § 16-103-3.

26 **16-103-5. Exceptions.** -- This chapter shall not apply to information about a student that
27 is publicly available.

28 **16-103-6. Penalties for violations.** -- In any civil action alleging a violation of this
29 chapter, the court may:

30 (1) Award to a prevailing applicant or student declaratory relief, damages, and reasonable
31 attorneys' fees and costs; and

32 (2) Award injunctive relief against any school or agent of any educational institution that
33 or who commits or proposes to commit a violation of this chapter.

34 SECTION 2. Title 16 of the General Laws entitled "EDUCATION" is hereby amended

1 by adding thereto the following chapter:

2 CHAPTER 104

3 STUDENT DATA-CLOUD COMPUTING

4 **16-104-1. Student data-cloud computing.** -- (a) For the purposes of this chapter:

5 (1) "Cloud computing service" means a service that enables convenient on-demand
6 network access to a shared pool of configurable computing resources to provide a student,
7 teacher, or staff member account-based productivity applications such as email, document
8 storage, and document editing that can be rapidly provisioned and released with minimal
9 management effort or cloud computing service provider interaction.

10 (2) "Cloud computing service provider" means an entity other than a public elementary or
11 secondary school that operates a cloud computing service.

12 (3) "Process" means to use, access, manipulate, scan, modify, transform, disclose, store,
13 transmit, transfer, retain, aggregate, or dispose of student data.

14 (4) "Student data" means any information in any media or format created or provided: (i)
15 By a student; or (ii) By a school board employee about a student in the course of using a cloud
16 computing service, including the student's name, email address, postal address, email message,
17 documents, unique identifiers, and metadata.

18 (b) Notwithstanding any general or special law to the contrary, any person who provides
19 a cloud computing service to an educational institution operating within the state shall process
20 data of a student enrolled in kindergarten through twelfth (12th) grade for the sole purpose of
21 providing the cloud computing service to the educational institution and shall not process such
22 data for any commercial purposes, including, but not limited to, advertising purposes that benefit
23 the cloud computing service provider.

24 (c) Each cloud computing service that enters into a contract to provide such services shall
25 certify, in writing, that it shall comply with the provisions of this section.

26 SECTION 3. Title 28 of the General Laws entitled "LABOR AND LABOR
27 RELATIONS" is hereby amended by adding thereto the following chapter:

28 CHAPTER 56

29 EMPLOYEE SOCIAL MEDIA PRIVACY

30 **28-56-1. Definitions.** -- For the purposes of this chapter:

31 (1) "Social media account" means an electronic service or account, or electronic content,
32 including, but not limited to, videos, still photographs, blogs, video blogs, podcasts, instant and
33 text messages, email, online service or accounts, or internet website profiles or locations. For the
34 purposes of this chapter, social media account does not include an account opened at an

1 employer's behest, or provided by an employer, or intended to be used primarily on behalf of the
2 employer.

3 (2) "Applicant" means an applicant for employment.

4 (3) "Employee" means an individual who provides services or labor for an employer for
5 wages or other remuneration.

6 (4) "Employer" includes the state, and all political subdivisions of the state, and any
7 person in this state, employing individuals, and any person acting in the interest of an employer
8 directly or indirectly.

9 **28-56-2. Social media password requests prohibited. -- No employer shall:**

10 (1) Require, coerce, or request an employee or applicant to disclose the password or any
11 other means for accessing a personal social media account;

12 (2) Require, coerce, or request an employee or applicant to access a personal social media
13 account in the presence of the employer or representative;

14 (3) Require or coerce an employee or applicant to divulge any personal social media
15 account information, except when reasonably believed to be relevant to an investigation of
16 allegations of employee misconduct or workplace-related violation of applicable laws and
17 regulations and when not otherwise prohibited by law or constitution; provided that the
18 information is accessed and used solely to the extent necessary for purposes of that investigation
19 or a related proceeding.

20 **28-56-3. Social media access requests prohibited. -- No employer shall compel an**

21 employee or applicant to add anyone, including the employer or their agent, to their list of
22 contacts associated with a personal social media account or require, request, or cause an
23 employee or applicant to alter settings that affect a third party's ability to view the contents of a
24 personal social media account.

25 **28-56-4. Disciplinary actions prohibited. -- No employer shall:**

26 (1) Discharge, discipline, or otherwise penalize or threaten to discharge, discipline, or
27 otherwise penalize any employee for an employee's refusal to disclose or provide access to any
28 information specified in § 28-56-2, or for refusal to add the employer to his or her list of contacts
29 associated with a personal social media account, or to alter the settings associated with a personal
30 social media account, as specified in § 28-56-3; or

31 (2) Fail or refuse to hire any applicant as a result of the applicant's refusal to disclose or
32 provide access to any information specified in § 28-56-2, or for refusal to add the employer or
33 their agent to their list of contacts associated with a personal social media account, or to alter the
34 settings associated with a personal social media account, as specified in § 28-56-3.

1 **28-56-5. Exceptions. --** (a) This chapter shall not apply to information about an applicant
2 or employee that is publicly available.

3 (b) This chapter shall not prohibit or restrict an employer from complying with a duty to
4 screen employees or applicants before hiring or to monitor or retain employee communications
5 that is established by a self-regulatory organization as defined by the Securities and Exchange Act
6 of 1934, 15 U.S.C. 78c(a)(26) or under state or federal law or regulation to the extent necessary to
7 supervise communications of regulated financial institutions insurance or securities licensees for
8 banking insurance or securities related business purposes.

9 **28-56-6. Penalties for Violations. --** In any civil action alleging a violation of this
10 chapter, the court may:

11 (1) Award to a prevailing applicant or employee declaratory relief, damages and
12 reasonable attorneys' fees and costs; and

13 (2) Award injunctive relief against any employer or agent of any employer that or who
14 commits or proposes to commit a violation of this chapter.

15 SECTION 4. This act shall take effect upon passage.

=====
LC003479/SUB A/3
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO EDUCATION AND LABOR - SOCIAL MEDIA PRIVACY AND STUDENT
DATA - CLOUD COMPUTING

1 This act would establish a social media privacy policy for students and employees. In
2 addition, the act would limit the use of student data and information obtained by certain cloud
3 computing service providers and would prohibit the use of such data for any commercial purpose.
4 Cloud computing is defined as a service which enables users to store and access certain
5 information via an on-demand network.

6 This act would take effect upon passage.

=====
LC003479/SUB A/3
=====