

2022 -- H 7274 SUBSTITUTE A

LC003212/SUB A/2

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

RELATING TO EDUCATION -- TEACHERS' TENURE

Introduced By: Representatives McNamara, Serpa, Corvese, Ruggiero, and Noret

Date Introduced: February 02, 2022

Referred To: House Education

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 16-13 of the General Laws entitled "Teachers' Tenure" is hereby
2 amended by adding thereto the following section:

3 **16-13-9. Termination for cause - List maintained.**

4 (a) Whenever a tenured teacher is terminated for good and just cause pursuant to § 16-13-
5 3 by a school committee or the governing body of a charter or private school, the school committee
6 or the governing body of the charter or private school shall, within sixty (60) days of the termination
7 or in cases where the termination is appealed, within sixty (60) days after the conclusion of the
8 appeal filed by the terminated tenured teacher when the termination is upheld, furnish the Rhode
9 Island department of elementary and secondary education with the identity of the terminated
10 teacher. Provided, this section shall not apply to:

11 (1) The nonrenewal of a contract of a nontenured teacher pursuant to § 16-13-2; or

12 (2) The termination of a tenured teacher due to fiscal exigency or program reorganization.

13 (b) The department shall maintain a list of those teachers who have been terminated for
14 good and just cause (the "list") and shall update the list monthly to include the names of any
15 additional teachers submitted by a school committee or the governing body of a charter or private
16 school pursuant to the provisions of this section. This list of terminated teachers shall be accessible
17 only to the hiring authority of any private, parochial, charter or public school.

18 (c) The list of terminated teachers shall not be a public record pursuant to the "access to
19 public records act" (APRA) set forth in chapter 2 of title 38. This section shall not abrogate or

1 [modify any existing statutory or common law privileges or immunities.](#)

2 SECTION 2. Section 38-2-2 of the General Laws in Chapter 38-2 entitled "Access to Public
3 Records" is hereby amended to read as follows:

4 **38-2-2. Definitions.**

5 As used in this chapter:

6 (1) "Agency" or "public body" means any executive, legislative, judicial, regulatory, or
7 administrative body of the state, or any political subdivision thereof; including, but not limited to:
8 any department, division, agency, commission, board, office, bureau, authority; any school, fire, or
9 water district, or other agency of Rhode Island state or local government that exercises
10 governmental functions; any authority as defined in § 42-35-1(b); or any other public or private
11 agency, person, partnership, corporation, or business entity acting on behalf of and/or in place of
12 any public agency.

13 (2) "Chief administrative officer" means the highest authority of the public body.

14 (3) "Public business" means any matter over which the public body has supervision,
15 control, jurisdiction, or advisory power.

16 (4) "Public record" or "public records" shall mean all documents, papers, letters, maps,
17 books, tapes, photographs, films, sound recordings, magnetic or other tapes, electronic data
18 processing records, computer stored data (including electronic mail messages, except specifically
19 for any electronic mail messages of or to elected officials with or relating to those they represent
20 and correspondence of or to elected officials in their official capacities), or other material regardless
21 of physical form or characteristics made or received pursuant to law or ordinance or in connection
22 with the transaction of official business by any agency. For the purposes of this chapter, the
23 following records shall not be deemed public:

24 (A)(I)(a) All records relating to a client/attorney relationship and to a doctor/patient
25 relationship, including all medical information relating to an individual in any files.

26 (b) Personnel and other personal individually identifiable records otherwise deemed
27 confidential by federal or state law or regulation, or the disclosure of which would constitute a
28 clearly unwarranted invasion of personal privacy pursuant to 5 U.S.C. § 552 et seq.; provided,
29 however, with respect to employees, and employees of contractors and subcontractors working on
30 public works projects that are required to be listed as certified payrolls, the name, gross salary,
31 salary range, total cost of paid fringe benefits, gross amount received in overtime, and any other
32 remuneration in addition to salary, job title, job description, dates of employment and positions
33 held with the state, municipality, or public works contractor or subcontractor on public works
34 projects, employment contract, work location, and/or project, business telephone number, the city

1 or town of residence, and date of termination shall be public. For the purposes of this section
2 "remuneration" shall include any payments received by an employee as a result of termination, or
3 otherwise leaving employment, including, but not limited to, payments for accrued sick and/or
4 vacation time, severance pay, or compensation paid pursuant to a contract buy-out provision. For
5 purposes of this section, the city or town residence shall not be deemed public for peace officers,
6 as defined in § 12-7-21, and shall not be released.

7 (II) Notwithstanding the provisions of this section, or any other provision of the general
8 laws to the contrary, the pension records of all persons who are either current or retired members
9 of any public retirement systems, as well as all persons who become members of those retirement
10 systems after June 17, 1991, shall be open for public inspection. "Pension records" as used in this
11 section, shall include all records containing information concerning pension and retirement benefits
12 of current and retired members of the retirement systems and future members of said systems,
13 including all records concerning retirement credits purchased and the ability of any member of the
14 retirement system to purchase retirement credits, but excluding all information regarding the
15 medical condition of any person and all information identifying the member's designated
16 beneficiary or beneficiaries unless and until the member's designated beneficiary or beneficiaries
17 have received or are receiving pension and/or retirement benefits through the retirement system.

18 (B) Trade secrets and commercial or financial information obtained from a person, firm,
19 or corporation that is of a privileged or confidential nature.

20 (C) Child custody and adoption records, records of illegitimate births, and records of
21 juvenile proceedings before the family court.

22 (D) All records maintained by law enforcement agencies for criminal law enforcement and
23 all records relating to the detection and investigation of crime, including those maintained on any
24 individual or compiled in the course of a criminal investigation by any law enforcement agency.
25 Provided, however, such records shall not be deemed public only to the extent that the disclosure
26 of the records or information (a) Could reasonably be expected to interfere with investigations of
27 criminal activity or with enforcement proceedings; (b) Would deprive a person of a right to a fair
28 trial or an impartial adjudication; (c) Could reasonably be expected to constitute an unwarranted
29 invasion of personal privacy; (d) Could reasonably be expected to disclose the identity of a
30 confidential source, including a state, local, or foreign agency or authority, or any private institution
31 that furnished information on a confidential basis, or the information furnished by a confidential
32 source; (e) Would disclose techniques and procedures for law enforcement investigations or
33 prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions; or
34 (f) Could reasonably be expected to endanger the life or physical safety of any individual. Records

1 relating to management and direction of a law enforcement agency and records or reports reflecting
2 the initial arrest of an adult and the charge or charges brought against an adult shall be public.

3 (E) Any records that would not be available by law or rule of court to an opposing party in
4 litigation.

5 (F) Scientific and technological secrets and the security plans of military and law
6 enforcement agencies, the disclosure of which would endanger the public welfare and security.

7 (G) Any records that disclose the identity of the contributor of a bona fide and lawful
8 charitable contribution to the public body whenever public anonymity has been requested of the
9 public body with respect to the contribution by the contributor.

10 (H) Reports and statements of strategy or negotiation involving labor negotiations or
11 collective bargaining.

12 (I) Reports and statements of strategy or negotiation with respect to the investment or
13 borrowing of public funds, until such time as those transactions are entered into.

14 (J) Any minutes of a meeting of a public body that are not required to be disclosed pursuant
15 to chapter 46 of title 42.

16 (K) Preliminary drafts, notes, impressions, memoranda, working papers, and work
17 products, including those involving research at state institutions of higher education on commercial,
18 scientific, artistic, technical, or scholarly issues, whether in electronic or other format; provided,
19 however, any documents submitted at a public meeting of a public body shall be deemed public.

20 (L) Test questions, scoring keys, and other examination data used to administer a licensing
21 examination, examination for employment or promotion, or academic examinations; provided,
22 however, that a person shall have the right to review the results of his or her examination.

23 (M) Correspondence of or to elected officials with or relating to those they represent and
24 correspondence of or to elected officials in their official capacities.

25 (N) The contents of real estate appraisals, engineering, or feasibility estimates and
26 evaluations made for or by an agency relative to the acquisition of property or to prospective public
27 supply and construction contracts, until such time as all of the property has been acquired or all
28 proceedings or transactions have been terminated or abandoned; provided the law of eminent
29 domain shall not be affected by this provision.

30 (O) All tax returns.

31 (P) All investigatory records of public bodies, with the exception of law enforcement
32 agencies, pertaining to possible violations of statute, rule, or regulation other than records of final
33 actions taken, provided that all records prior to formal notification of violations or noncompliance
34 shall not be deemed to be public.

1 (Q) Records of individual test scores on professional certification and licensing
2 examinations; provided, however, that a person shall have the right to review the results of his or
3 her examination.

4 (R) Requests for advisory opinions until such time as the public body issues its opinion.

5 (S) Records, reports, opinions, information, and statements required to be kept confidential
6 by federal law or regulation or state law or rule of court.

7 (T) Judicial bodies are included in the definition only in respect to their administrative
8 function provided that records kept pursuant to the provisions of chapter 16 of title 8 are exempt
9 from the operation of this chapter.

10 (U) Library records that, by themselves or when examined with other public records, would
11 reveal the identity of the library user requesting, checking out, or using any library materials.

12 (V) Printouts from TELE -- TEXT devices used by people who are deaf or hard of hearing
13 or speech impaired.

14 (W) All records received by the insurance division of the department of business regulation
15 from other states, either directly or through the National Association of Insurance Commissioners,
16 if those records are accorded confidential treatment in that state. Nothing contained in this title or
17 any other provision of law shall prevent or be construed as prohibiting the commissioner of
18 insurance from disclosing otherwise confidential information to the insurance department of this
19 or any other state or country, at any time, so long as the agency or office receiving the records
20 agrees in writing to hold it confidential in a manner consistent with the laws of this state.

21 (X) Credit card account numbers in the possession of state or local government are
22 confidential and shall not be deemed public records.

23 (Y) Any documentary material, answers to written interrogatories, or oral testimony
24 provided under any subpoena issued under § 9-1.1-6.

25 (Z) Any individually identifiable evaluations of public school employees made pursuant to
26 state or federal law or regulation.

27 (AA) All documents prepared by school districts intended to be used by school districts in
28 protecting the safety of their students from potential and actual threats.

29 [\(BB\) The list of teachers terminated for good and just cause maintained by the department](#)
30 [of education pursuant to § 16-13-9.](#)

31 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO EDUCATION -- TEACHERS' TENURE

1 This act would require a school committee or the governing body of a charter or private
2 school to submit the identity of any teacher terminated for cause to the Rhode Island department of
3 education. Provided, this requirement would not apply to the nonrenewal of the contract of a
4 nontenured teacher or to the termination of a tenured teacher due to fiscal exigency or program
5 reorganization. The act would also require the department to allow access to the list by the hiring
6 authority of any private, parochial, charter or public school. The list of terminated teachers would
7 not be a public record pursuant to the "access to public records act" (APRA).

8 This act would take effect upon passage.

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