

# 2014 -- H 7124 SUBSTITUTE B

=====  
LC003321/SUB B  
=====

## 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

Introduced By: Representatives Kennedy, Ajello, Naughton, E Coderre, and San Bento

Date Introduced: January 16, 2014

Referred To: House 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:

### CHAPTER 103

#### 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  
19 shall:

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

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

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

7           **16-103-3. Social media access requests prohibited.** -- No educational institution shall  
8 compel a student or applicant, as a condition of acceptance or participation in curricular or  
9 extracurricular activities, to add anyone, including a coach, teacher, school administrator, or other  
10 school employee or school volunteer, to his or her list of contacts associated with a personal  
11 social media account or require, request, or cause a student or applicant to alter settings that affect  
12 a third party's ability to view the contents of a personal social media account.

13           **16-103-4. Disciplinary action prohibited.** -- No educational institution shall:

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

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

25           **16-103-5. Exceptions.** -- This chapter shall not apply to information about a student that  
26 is publicly available.

27           **16-103-6. Penalties for violations.** -- In any civil action alleging a violation of this  
28 chapter, the court may:

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

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

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

1 CHAPTER 104

2 STUDENT DATA-CLOUD COMPUTING

3 **16-104-1. Student data-cloud computing.** -- (a) For the purposes of this chapter:

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

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

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

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

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

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

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

27 CHAPTER 56

28 EMPLOYEE SOCIAL MEDIA PRIVACY

29 **28-56-1. Definitions.** -- For the purposes of this chapter:

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

1 employer.

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

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

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

8 **28-56-2. Social media password requests prohibited. --** No employer shall:

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

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

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

19 **28-56-3. Social media access requests prohibited. --** No employer shall compel an  
20 employee or applicant to add anyone, including the employer or their agent, to their list of  
21 contacts associated with a personal social media account or require, request, or cause an  
22 employee or applicant to alter settings that affect a third party's ability to view the contents of a  
23 personal social media account.

24 **28-56-4. Disciplinary actions prohibited. --** No employer shall:

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

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

34 **28-56-5. Exceptions. --** (a) This chapter shall not apply to information about an applicant

1 or employee that is publicly available.

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

8 **28-56-6. Penalties for Violations. --** In any civil action alleging a violation of this  
9 chapter, the court may:

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

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

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

=====  
LC003321/SUB B  
=====

EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T  
RELATING TO EDUCATION AND LABOR - SOCIAL MEDIA PRIVACY

\*\*\*

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.

=====  
LC003321/SUB B  
=====