

HB 1649 - AS INTRODUCED

2022 SESSION

22-2757

11/10

HOUSE BILL

1649

AN ACT relative to unique pupil identification for pupils in the education freedom accounts program.

SPONSORS: Rep. Tanner, Sull. 9; Rep. Fellows, Graf. 8; Rep. Heath, Hills. 14; Rep. Mullen, Hills. 7; Rep. Myler, Merr. 10; Rep. Porter, Hills. 1; Rep. Woodcock, Carr. 2

COMMITTEE: Education

ANALYSIS

This bill requires that unique pupil identifier be made available to scholarship organizations for the distribution of educational freedom accounts.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to unique pupil identification for pupils in the education freedom accounts program.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Adequate Public Education; Unique Pupil Identification. Amend RSA 193-E:5, I(b)-(p) to read
2 as follows:

3 (b) The random number generator shall make available to each early childhood program,
4 district, ***scholarship organization for the distribution of education freedom accounts***
5 ***(EFAs)***, or postsecondary institution a unique pupil identifier for each pupil pursuing an education
6 in a New Hampshire early childhood program, district, ***scholarship organization for the***
7 ***distribution of EFAs***, or postsecondary institution. The unique pupil identifier itself shall not
8 permit pupil identification within a subcategory including, but not limited to, early childhood
9 program, district, postsecondary institution, sex, age, grade, or county of residence.

10 (c) The unique pupil identifier shall be requested and maintained by the early childhood
11 program, district, ***scholarship organization for the distribution of EFAs***, or postsecondary
12 institution. The unique pupil identifier shall remain in the pupil's file throughout his or her
13 academic career in New Hampshire.

14 (d)(1) Access to the random number generator shall be limited to an early childhood
15 program director or designee, a district superintendent or designee, ***or the director of the***
16 ***scholarship organization for the distribution of EFAs***, or a postsecondary institution registrar
17 or designee, and only for pupils pursuing an education in that early childhood program, district,
18 ***EFA***, or postsecondary institution.

19 (2) A parent or legal guardian shall, upon request made in person to the early child
20 program director, school district superintendent for the district which the child last attended,
21 ***scholarship organization for the distribution of EFAs***, or postsecondary institution registrar,
22 have access to their child's unique pupil identifier and their child's data maintained in the data
23 warehouse. A person who is 18 years of age or older shall, upon request made in person to the early
24 child program director, school district superintendent for the district which the person last attended,
25 or postsecondary institution registrar, have access to their unique pupil identifier and their data
26 maintained in the data warehouse.

27 (3) Any person who knowingly violates the provisions of this subparagraph is guilty
28 of a class B felony and may be subject to involuntary termination of employment.

29 (e) The random number generator shall create and maintain a comprehensive audit trail
30 for all users accessing the random number generator.

(f) The data warehouse shall create and maintain an audit trail for all users accessing secure information.

(g) No person, including an individual, business, government, or governmental entity, shall require an individual to provide a unique pupil identifier as a condition of doing business, providing a service, or receiving a benefit of any kind, except as provided in RSA 193-E:5, I(c) ***or unless receiving public funding for the education of a New Hampshire student.*** Any person or entity who knowingly violates the provisions of this subparagraph shall be liable for actual damages or \$25,000, whichever is greater, for each violation. Each denial of services or benefits shall constitute a separate offense under this subparagraph.

(h) If a pupil's records become part of an administrative action outside of the pupil's early childhood program, district, ***scholarship organization distributing EFAs***, or postsecondary institution, or a part of any judicial or quasi-judicial proceeding, the part of the record containing the pupil's unique pupil identifier shall be redacted by the early childhood program, district, or postsecondary institution prior to release.

(i) The information maintained in the data warehouse shall be available to the department of education, ***the legislative budget office, the attorney general's office***, and to the public using the data maintained by the department of education. No personally identifiable information shall be required as a condition of access or usage under this subparagraph, nor shall such access or usage be tracked. Under no circumstances shall the unique pupil identifier be made available to the public.

(j) Information maintained in the random number generator shall be exempt from the provisions of RSA 91-A.

(k) Authorized personnel at the department of education shall administer and maintain the unique pupil identification system.

(l) Except as provided in RSA 193-C:12, the department of education shall provide no personally identifiable information collected pursuant to this chapter, including but not limited to name, date of birth, or social security number to any person or entity, other than an early childhood program, district, ***scholarship organization distributing EFAs***, or postsecondary institution authorized to access this data, absent a court order. Under no circumstances shall personally identifiable information or the unique pupil identifier be provided to any person or entity outside of New Hampshire. Any person who knowingly violates this provision is guilty of a class B felony and may be subject to involuntary termination of employment.

(m) Early childhood programs not receiving Head Start or child care scholarship funds, private schools comprised of kindergarten through grade 12, and all private postsecondary institutions may participate in the data warehouse and random number generator. Participating early childhood programs may volunteer to include data for pupils for which Head Start or child care scholarship funds are not received. Permission of a parent or legal guardian of a pupil enrolled in an

early childhood program shall be obtained before a pupil may participate in the data warehouse and random number generator. For the purposes of this section, such voluntary participating early childhood programs shall be included in the definition set forth in RSA 193-E:4.

(n) Notwithstanding subparagraphs (a)-(m), to enable the department of education to ensure the accuracy of the data, the commissioner of the department of education may, in writing, grant individuals access to the data warehouse, including but not limited to, access to the unique pupil identifier for the purpose of connecting information in the warehouse with the random number generator.

(o) At the request of an early childhood program, school district, ***scholarship organization for the distribution of EFAs***, or postsecondary institution, the department of education shall provide pupil-level data from the unique pupil identification system to an early childhood program, school district, or postsecondary institution for pupils pursuing an education in that entity. Except as otherwise specifically provided in statute, the department shall not provide for any purpose any student personally-identifiable data to any public or private individual or entity, including the local, state, or federal government, or department or agency thereof, regardless of whether such individual or entity is for profit or not-for-profit, ~~and regardless of whether the public or private individual or entity is involved in any way with the pupil's education~~ ***unless receiving state public funding including funds from the educational trust fund.***

(p) New Hampshire home educated pupils pursuing an education in a postsecondary institution who have not been assigned a unique pupil identifier may, without penalty, opt out of being included in the unique pupil identification system for postsecondary pupils ***unless receiving state public funding including funds from the educational trust fund.***

2 New Paragraph; Educational Freedom Accounts; Scholarship Organization Authority and Responsibilities. Amend RSA 194-F:4 by inserting after paragraph I the following new paragraph:

I-a. The scholarship organization shall request and maintain unique pupil identifiers pursuant to RSA 193-E:5, which shall be kept to aggregate data reported to the department of education, to certify student eligibility with regard to residency, age, and income, to determine enrollment status with resident districts, to record annual records of attainment, to report qualifying expenses records, and to determine compliance with rules and requirements.

3 Effective Date. This act shall take effect 60 days after its passage.