

STUDENT BIOMETRIC INFORMATION: AN OVERVIEW

(P.A. 95-0232, eff. 8/1/07)

Public Act 95-0232 (SB 1702) amends the *Illinois School Code* by adding a new provision, Section 5/10-20.40 (105 ILCS 5/10-20.40), entitled “Student Biometric Information,” to the Article 10 listing of school board duties and powers. The new law regulates a school district’s collection and use of student biometric information. (Note that Article 34 of the Code, applicable to Chicago Public Schools, was similarly amended under this Act.)

1. What is student biometric information?

The law expressly defines “biometric information” as:

“any information that is collected through an identification process for individuals based on their unique behavioral or physiological characteristics, including fingerprint, hand geometry, voice, or facial recognition or iris or retinal scans.”

2. What is the purpose of this law?

The law governs a school district’s ability to collect, utilize, maintain, and disseminate student biometric information. During legislative discussion of the proposed bill, the Illinois Senate recognized that some school districts are collecting and using biometric information to identify students for purposes such as operating cafeteria escrow accounts and library loans. As technology becomes more readily available and inexpensive, the Senate surmised that more districts will use biometric information as unique identifiers of students. Consequently, the legislation is intended to regulate the use of such physical data, including the protection of students from “further usage of their biometrics after they leave the certain school, after they graduate, or when they turn eighteen.” *Senate Transcript*, March 21, 2007, pp. 135-137.

3. Does the new law prohibit school districts from collecting and using student biometric information?

No. The law allows school districts to collect and use such information in accordance with an adopted policy that includes the minimum statutory requirements.

4. What information must be addressed in a school board policy?

Any school district that intends to collect biometric information from students is obligated under the new law to adopt a formal policy that requires, at a minimum, ALL of the following:

- a. **Written permission.** The district must obtain written permission from the individual who has legal custody of the student (or from the student if he/she is 18 years of age). The law expressly refers to the definition of “legal custody” as defined in the residency provision of the *School Code* (Reminder: Court guardianship documents are not required for legal custody).
 - b. **Discontinuation of use.** The district must discontinue using a student’s biometric information upon either: (1) the student’s graduation or withdrawal from the school district, or (2) receipt of a written request to discontinue use by the person with legal custody of the student (or by the student if he/she is 18 years of age).
 - c. **Destruction of biometric information.** The district must destroy all of a student’s biometric information within 30 days after the biometric information is discontinued for either of the two reasons listed in paragraph 4.b above.
 - d. **Use of biometric information.** The district must only use a student’s biometric information for identification or fraud prevention purposes.
 - e. **Disclosure of biometric information to others.** The district is prohibited from selling, leasing, or otherwise disclosing a student’s biometric information to another person or entity UNLESS (1) the person with legal custody (or the student if he/she is 18) consents to the disclosure, or (2) the disclosure is required by a court order.
 - f. **Protection of biometric information.** The district must store, transmit, and protect all biometric information from disclosure.
5. **Can a district refuse services to a student for failure to provide written consent?**

No, the law specifically prohibits this practice. A school district cannot use, as the basis for refusal of services otherwise available to a student, the failure of the legal custodian (or the student if 18) to provide written consent for the collection and use of the student’s biometric information.