HOUSE . . . . . No. 1718

By Mrs. Pines of Newton, petition of Lois G. Pines relative to the rights of certain school children. Education.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Six.

AN ACT RELATIVE TO THE RIGHTS OF CERTAIN SCHOOL CHILDREN.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Section 71 of the General Laws is hereby amended by adding,
2 after section 34F, the following eight new sections: —
3 *Section 34G.* The following words shall, whenever used in this
4 section or sections thirty-four H through thirty-four N, inclusive,
5 have the following meanings, unless the context otherwise
6 requires:
7 "institution of higher learning" means any public college or
8 university operated by the Commonwealth, any degree granting
9 college or university chartered or authorized by the Com-
10 monwealth, any private business school as defined in section one
11 of chapter seventy-five D, and any other degree or certificate
12 granting institution which regularly enrolls students who have
13 completed high school.
14 "student" means any person enrolled, formerly enrolled, or
15 applying to be enrolled in an institution of higher learning.
16 "student record" means any information maintained by an
17 institution of higher learning about a student in personally
18 identifiable form.
19 "directory information" means a student record which contains
20 only a listing of the student's name, period of enrollment or
21 division or school.
22 "transcript" means a student record which records a student's
23 progress through an institution of higher learning and shall
24 include factual description of courses taken and grades or the
25 equivalent received, academic honors, notation of graduation or

termination, lists or records of extracurricular activities, and other summary factual data.

"evaluative information" means a student record which contains any or all of the following information: academic recommendations, medical, psychological, or counselling records, results of standardized tests, disciplinary information and confidential financial statements submitted by a student or his parents.

Section 34H. Every institution of higher learning which compiles student records shall:

(1) Designate an administrator to be responsible for all student records.

(2) Insure that no student record is made available to any person except as permitted by this section and sections thirty-four I and thirty-four J.

(3) Develop institutional procedures whereby students may challenge the contents of records they believe to be inaccurate, incomplete or disseminated contrary to this section or sections thirty-four I and thirty-four J, and a method whereby a student may have a statement inserted into the record explaining any disagreement he may have with the contents of a record which is not changed after he has made a complaint.

(4) Maintain medical and psychiatric records in a secure location separate from all other student records.

(5) Maintain a log or audit trail to record all access to student records which shall note the name and title of the person seeking access, the date of such access request, and the reason that such access is sought.

(6) Develop procedures for informing students and employees of the rights and responsibilities created by this section and sections thirty-four I through thirty-four N, inclusive, including any administrative sanctions which may be imposed for violation of the policies which the institution has adopted.

(7) Maintain student records in a manner which will insure their physical security.

(8) Permit students to exercise their rights enumerated in section thirty-four I during normal business hours.

63 *Section 34I.* Every student at an institution of higher learning
64 may inspect and have made for him, upon payment of a fee not to
65 exceed actual cost, a photocopy of all student records which
66 pertain to him; provided, however, that access to psychiatric
67 records may be denied if, in the opinion of a psychiatrist familiar
68 with the case, granting access would probably cause the student
69 to become violent and inflict physical harm upon himself or
70 others or to become severely depressed or suicidal; and provided
71 further that access to financial information furnished by a parent
72 or guardian may be denied to a student if such information was
73 furnished under a pledge of confidentiality that it would not be
74 made accessible to the student. In circumstances where access to
75 psychiatric information is denied, the institution shall make such
76 information available to a psychiatrist designated by the student.
77 Notwithstanding the previous paragraph, an institution of
78 higher learning may deny access to a student to any recommenda-
79 tion for admission to the institution which was written before the
80 effective date of this section under a pledge of confidentiality
81 given by the institution to the writer of such recommendation.
82 Any such recommendation shall be retained in a secure manner
83 separate from other student records and shall not be accessible to
84 any person except upon administrative subpoena of the
85 Massachusetts commission against discrimination or upon
86 judicial subpoena. All such recommendations shall be destroyed
87 one year after the effective date of this section.
88 *Section 34J.* Except as provided in section thirty-four I, an
89 institution of higher learning shall grant access to student records
90 only as follows:
91 (1) directory information and information concerning a
92 student's participation in intercollegiate sports or other inter-
93 collegiate extracurricular activities shall be generally available
94 upon request to any person.
95 (2) transcripts shall be available to those persons within the
96 institution who have a legitimate education-related purpose for
97 obtaining such access.
98 (3) transcripts and evaluative information shall only be
99 disseminated outside of the institution to officials expressly

100 authorized by law to have access to such information, or to other
101 persons only if the student has previously signed an authorization
102 specifying which records should be released, the reasons for such
103 release, and the institution, agency, or person to whom such
104 records are to be released. A copy of all information so
105 disseminated shall be sent to the student if the student so requests.
106 (4) evaluative information shall be available only to persons
107 within the institution who have a definite need for access to the
108 specific information sought.
109 (5) in the event of a medical or psychiatric emergency where
110 the student is treated outside of the institution and the attending
111 physician requests medical or psychiatric information, the
112 institution of higher learning may furnish the requested record
113 without the prior consent of the student if, at the conclusion of
114 the emergency, the institution informs the student of the release
115 of such records.
116 *Section 34K.* An institution of higher learning shall maintain
117 directory information, transcripts, and academic recommen-
118 dations for at least sixty years after a student graduates or
119 otherwise terminates his enrollment.
120 An institution of higher learning shall maintain all medical
121 records in the manner provided in section seventy of chapter one
122 hundred and eleven.
123 An institution of higher learning shall destroy all disciplinary
124 information concerning a student six years after the student
125 graduates or his enrollment at said institution is otherwise
126 terminated unless such information is necessary for the
127 prosecution or defense of any civil or criminal action.
128 An institution of higher learning shall destroy all other
129 evaluative information one year after a student graduates or
130 otherwise terminates his enrollment without completing degree
131 requirements defined in section thirty-four G.
132 *Section 34M.* Any aggrieved student or parent may institute a
133 civil action in superior court for damages or to restrain any
134 violation of sections thirty-four D through thirty-four L,
135 inclusive. The court may, in addition to such actual damages as
136 may be shown, award such costs, reasonable attorneys' fees and

137 disbursements as were incurred by the person bringing the action.
138 *Section 34N.* Any person who wilfully obtains or requests
139 student records, or any person who disseminates or makes
140 accessible such records, in violation of the provisions of sections
141 thirty-four D through thirty-four L, inclusive, shall for each
141 offense be fined not more than five hundred dollars or imprisoned
142 in a jail or house of correction for not more than six months, or
143 both.