

Tenn. Code Ann. § 10-7-504[Copy Citation](#)

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[Tennessee Code Annotated](#) [Title 10 Public Libraries, Archives and Records](#) [Chapter 7 Public Records](#) [Part 5 Miscellaneous Provisions](#)**10-7-504. Confidential records -- Exceptions.****(a)**

(1) The medical records of patients in state, county and municipal hospitals and medical facilities, and the medical records of persons receiving medical treatment, in whole or in part, at the expense of the state, county or municipality, shall be treated as confidential and shall not be open for inspection by members of the public. Any records containing the source of body parts for transplantation or any information concerning persons donating body parts for transplantation shall be treated as confidential and shall not be open for inspection by members of the public.

(2)

(A) All investigative records of the Tennessee bureau of investigation, the office of inspector general, all criminal investigative files of the department of agriculture and the department of environment and conservation, all criminal investigative files of the motor vehicle enforcement division of the department of safety relating to stolen vehicles or parts, all criminal investigative files and records of the Tennessee alcoholic beverage commission and all files of the handgun carry permit and driver license issuance divisions of the department of safety relating to bogus handgun carry permits and bogus driver licenses issued to undercover law enforcement agents shall be treated as confidential and shall not be open to inspection by members of the public. The information contained in such records shall be disclosed to the public only in compliance with a subpoena or an order of a court of record; provided, however, that such investigative records of the Tennessee bureau of investigation shall be open to inspection by elected members of the general assembly if such inspection is directed by a duly adopted resolution of either house or of a standing or joint committee of either house. Records shall not be available to any member of the executive branch except to the governor and to those directly involved in the investigation in the specified agencies.

(B) The records of the departments of agriculture and environment and conservation and the Tennessee alcoholic beverage commission referenced in subdivision (a)(2)(A) shall cease to be confidential when the investigation is closed by the department or commission or when the court in which a criminal prosecution is brought has entered an order concluding all proceedings and the opportunity for direct appeal has been exhausted; provided, however, that any identifying information about a confidential informant or undercover law enforcement agent shall remain confidential.

(C) The Tennessee bureau of investigation, upon written request by an authorized person of a state governmental agency, is authorized to furnish and disclose to the requesting agency the criminal history, records and data from its files, and the files of the federal government and other states to which it may have access, for the limited purpose of determining whether a license or permit should be issued to any person, corporation, partnership or other entity, to engage in an authorized activity affecting the rights, property or interests of the public or segments thereof.

(3) The records, documents and papers in the possession of the military department which involve the security of the United States and/or the state of Tennessee, including, but not restricted to, national guard personnel records, staff studies and investigations, shall be treated as confidential and shall not be open for inspection by members of the public.

(4)

(A) The records of students in public educational institutions shall be treated as confidential. Information in such records relating to academic performance, financial status of a student or the student's parent or guardian, medical or psychological treatment or testing shall not be made available to unauthorized personnel of the institution or to the public or any agency, except those agencies authorized by the educational institution to conduct specific research or otherwise authorized by the governing board of the institution, without the consent of the student involved or the parent or guardian of a minor student attending any institution of elementary or secondary education, except as otherwise provided by law or regulation pursuant thereto, and except in consequence of due legal process or in cases when the safety of persons or property is involved. The governing board of the institution, the department of education, and the Tennessee higher education commission shall have access on a confidential basis to such records as are required to fulfill their lawful functions. Statistical information not identified with a particular student may be released to any person, agency, or the public; and information relating only to an individual student's name, age, address, dates of attendance, grade levels completed, class placement and academic degrees awarded may likewise be disclosed.

(B) Notwithstanding the provisions of subdivision (a)(4)(A) to the contrary, unless otherwise prohibited by the federal Family Educational Rights and Privacy Act (FERPA), codified in 20 U.S.C. § 1232g, an institution of post-secondary education shall disclose to an alleged victim of any crime of violence, as that term is defined in 18 U.S.C. § 16, or a nonforcible sex offense, the final results of any disciplinary proceeding conducted by such institution against the alleged perpetrator of such crime or offense with respect to such crime or offense.

(C) Notwithstanding the provisions of subdivision (a)(4)(A) to the contrary, unless otherwise prohibited by FERPA, an institution of post-secondary education shall disclose the final results of any disciplinary proceeding conducted by such institution against a student who is an alleged perpetrator of any crime of violence, as that term is defined in 18 U.S.C. § 16, or a nonforcible sex offense, if the institution determines as a result of that disciplinary proceeding that the student committed a violation of the institution's rules or policies with respect to such crime or offense.

(D) For the purpose of this section, the final results of any disciplinary proceeding:



(ii) May include the name of any other student, such as a victim or witness, only with the written consent of that other student; and

(iii) Shall only apply to disciplinary hearings in which the final results were reached on or after October 7, 1998.

(E) Notwithstanding the provisions of subdivision (a)(4)(A) to the contrary, unless otherwise prohibited by FERPA, an educational institution shall disclose information provided to the institution under former § 40-39-106 [repealed], concerning registered sex offenders who are required to register under former § 40-39-103 [repealed].

(F) Notwithstanding the provisions of subdivision (a)(4)(A) to the contrary, unless otherwise prohibited by FERPA, an institution of higher education shall disclose to a parent or legal guardian of a student information regarding any violation of any federal, state, or local law, or of any rule or policy of the institution, governing the use or possession of alcohol, a controlled substance or a controlled substance analogue, regardless of whether that information is contained in the student's education records, if:

(i) The student is under twenty-one (21) years of age;

(ii) The institution determines that the student has committed a disciplinary violation with respect to such use or possession; and

(iii) The final determination that the student committed such a disciplinary violation was reached on or after October 7, 1998.

(G) Notwithstanding subdivision (a)(4)(A), § 37-5-107 or § 37-1-612, the institution shall release records to the parent or guardian of a victim or alleged victim of child abuse or child sexual abuse pursuant to § 37-1-403(i)(3) or § 37-1-605(d)(2). Any person or entity that is provided access to records under this subdivision (a)(4)(G) shall be required to maintain the records in accordance with state and federal laws and regulations regarding confidentiality.

(5) (A) The following books, records and other materials in the possession of the office of the attorney general and reporter which relate to any pending or contemplated legal or administrative proceeding in which the office of the attorney general and reporter may be involved shall not be open for public inspection:

(i) Books, records or other materials which are confidential or privileged by state law;

(ii) Books, records or other materials relating to investigations conducted by federal law enforcement or federal regulatory agencies, which are confidential or privileged under federal law;

(iii) The work product of the attorney general and reporter or any attorney working under the attorney general and reporter's supervision and control;

(iv) Communications made to or by the attorney general and reporter or any attorney working under the attorney general and reporter's supervision and control in the context of the attorney-client relationship; or

(v) Books, records and other materials in the possession of other departments and agencies which are available for public inspection and copying pursuant to §§ 10-7-503 and 10-7-506. It is the intent of this section to leave subject to public inspection and copying pursuant to §§ 10-7-503 and 10-7-506 such books, records and other materials in the possession of other departments even though copies of the same books, records and other materials which are also in the possession of the office of the attorney general and reporter are not subject to inspection or copying in the office of the attorney general and reporter; provided, that such records, books and materials are available for copying and inspection in such other departments.

(B) Books, records and other materials made confidential by this subsection (a) which are in the possession of the office of the attorney general and reporter shall be open to inspection by the elected members of the general assembly, if such inspection is directed by a duly adopted resolution of either house or of a standing or joint committee of either house and is required for the conduct of legislative business.

(C) Except for the provisions of subdivision (a)(5)(B), the books, records and materials made confidential or privileged by this subdivision (a)(5) shall be disclosed to the public only in the discharge of the duties of the office of the attorney general and reporter.

(6) State agency records containing opinions of value of real and personal property intended to be acquired for a public purpose shall not be open for public inspection until the acquisition thereof has been finalized. This shall not prohibit any party to a condemnation action from making discovery relative to values pursuant to the Rules of Civil Procedure as prescribed by law.

(7) Proposals received pursuant to personal service, professional service, and consultant service contract regulations, and related records, including evaluations and memoranda, shall be available for public inspection only after the completion of evaluation of same by the state. Sealed bids for the purchase of goods and services, and leases of real property, and individual purchase records, including evaluations and memoranda relating to same, shall be available for public inspection only after the completion of evaluation of same by the state.

(8) All investigative records and reports of the internal affairs division of the department of correction or of the department of children's services shall be treated as confidential and shall not be open to inspection by members of the public. However, an employee of the department of correction or of the department of children's services shall be allowed to inspect such investigative records and reports if the records or reports form the basis of an adverse action against the employee. An employee of the department of correction shall also be allowed to inspect such investigative records of the internal affairs division of the department of correction, or relevant portion thereof, prior to a due process hearing at which disciplinary action is considered or issued unless the commissioner of correction specifically denies in writing the employee's request to examine such records prior to the hearing. The release of reports and records shall be in accordance with the Tennessee Rules of Civil Procedure. The court or administrative judge having jurisdiction over the proceedings shall issue appropriate protective orders, when necessary, to ensure that the information is disclosed only to appropriate persons. The information contained in such records and reports shall be disclosed to the public only in compliance with a subpoena or an order of a court of record.

(9)

(A) Official health certificates, collected and maintained by the state veterinarian pursuant to rule chapter 0080-2-1 of the department of agriculture, shall be treated as confidential and shall not be open for inspection by members of the public.

(B) Any data or records provided to or collected by the department of agriculture pursuant to the implementation and operation of premise identification or animal tracking programs shall be considered confidential and shall not be open for inspection by members of the public. Likewise, all contingency plans prepared concerning the department's response to agriculture-related homeland security events shall be considered confidential and shall not be open for inspection by members of the public. The department may disclose data or contingency plans to aid the law enforcement process or to protect human or animal health.



(10)

(A) The capital plans, marketing information, proprietary information and trade secrets submitted to the Tennessee venture capital network at Middle Tennessee State University shall be treated as confidential and shall not be open for inspection by members of the public.

(B) As used in this subdivision (a)(10), unless the context otherwise requires:

(i) "Capital plans" means plans, feasibility studies, and similar research and information that will contribute to the identification of future business sites and capital investments;

(ii) "Marketing information" means marketing studies, marketing analyses, and similar research and information designed to identify potential customers and business relationships;

(iii) "Proprietary information" means commercial or financial information which is used either directly or indirectly in the business of any person or company submitting information to the Tennessee venture capital network at Middle Tennessee State University, and which gives such person an advantage or an opportunity to obtain an advantage over competitors who do not know or use such information;

(iv) "Trade secrets" means manufacturing processes, materials used therein, and costs associated with the manufacturing process of a person or company submitting information to the Tennessee venture capital network at Middle Tennessee State University.

(11) Records that are of historical research value which are given or sold to public archival institutions, public libraries, or libraries of a unit of the Tennessee board of regents or the University of Tennessee, when the owner or donor of such records wishes to place restrictions on access to the records shall be treated as confidential and shall not be open for inspection by members of the public. This exemption shall not apply to any records prepared or received in the course of the operation of state or local governments.

(12) Personal information contained in motor vehicle records shall be treated as confidential and shall only be open for inspection in accordance with title 55, chapter 25.

(13)

(A) All memoranda, work notes or products, case files and communications related to mental health intervention techniques conducted by mental health professionals in a group setting to provide job-related critical incident counseling and therapy to law enforcement officers, county and municipal correctional officers, dispatchers, emergency medical technicians, emergency medical technician-paramedics, and firefighters, both volunteer and professional, are confidential and privileged and are not subject to disclosure in any judicial or administrative proceeding unless all parties waive such privilege. In order for such privilege to apply, the incident counseling and/or therapy shall be conducted by a qualified mental health professional as defined in § 33-1-101.

(B) For the purposes of this section, "group setting" means that more than one (1) person is present with the mental health professional when the incident counseling and/or therapy is being conducted.

(C) All memoranda, work notes or products, case files and communications pursuant to this section shall not be construed to be public records pursuant to this chapter.

(D) Nothing in this section shall be construed as limiting a licensed professional's obligation to report suspected child abuse or limiting such professional's duty to warn about dangerous individuals as provided under §§ 33-3-206 -- 33-3-209, or other provisions relevant to the mental health professional's license.

(E) Nothing in this section shall be construed as limiting the ability of a patient or client, or such person's survivor, to discover under the Rules of Civil Procedure or to admit in evidence under the Rules of Evidence any memoranda, work notes or products, case files and communications which are privileged by this section and which are relevant to a health care liability action or any other action by a patient against a mental health professional arising out of the professional relationship. In such an action against a mental health professional, neither shall anything in this section be construed as limiting the ability of the mental health professional to so discover or admit in evidence such memoranda, work notes or products, case files and communications.

(14) All riot, escape and emergency transport plans which are incorporated in a policy and procedures manual of county jails and workhouses or prisons operated by the department of correction or under private contract shall be treated as confidential and shall not be open for inspection by members of the public.

(15) (A) As used in this subdivision (a)(15), unless the context otherwise requires:

(i) "Identifying information" means the home and work addresses and telephone numbers, social security number, and any other information that could reasonably be used to locate the whereabouts of an individual;

(ii) "Protection document" means:

(a) An order of protection issued pursuant to title 36, chapter 3, part 6, that has been granted after proper notice and an opportunity to be heard;

(b) A similar order of protection issued by the court of another jurisdiction;

(c) An extension of an ex parte order of protection granted pursuant to § 36-3-605(a);

(d) A similar extension of an ex parte order of protection granted by a court of competent jurisdiction in another jurisdiction;

(e) A restraining order issued by a court of competent jurisdiction prohibiting violence against the person to whom it is issued;

(f) A court order protecting the confidentiality of certain information issued upon the request of a district attorney general to a victim or witness in a criminal case, whether pending or completed; and

(g) An affidavit from the director of a rape crisis center or domestic violence shelter certifying that an individual is a victim in need of protection; provided, that such affidavit is on a standardized form to be developed and distributed to such centers and shelters by the Tennessee task force against domestic violence; and

(iii) "Utility service provider" means any entity, whether public or private, that provides electricity, natural gas, water, or telephone service to customers on a subscription basis, whether or not regulated by the Tennessee public utility commission.

(B) If the procedure set out in this subdivision (a)(15) is followed, identifying information compiled and maintained by a utility service provider concerning a person who has obtained a valid protection document shall be treated as confidential and not open for inspection by the public.



seeks to make confidential, and such person must request that all identifying information about such person be maintained as confidential.

(D) The protection document must at the time of presentation be in full force and effect. The records custodian may assume that a protection document is in full force and effect if it is on the proper form and if on its face it has not expired.

(E) Upon being presented with a valid protection document, the records custodian shall accept receipt of it and maintain it in a separate file containing in alphabetical order all protection documents presented to such records custodian pursuant to this subdivision (a)(15). Nothing in this subdivision (a)(15) shall be construed as prohibiting a records custodian from maintaining an electronic file of such protection documents provided the records custodian retains the original document presented.

(F) Identifying information concerning a person that is maintained as confidential pursuant to this subdivision (a)(15) shall remain confidential until the person who requested such confidentiality notifies in person the records custodian of the appropriate utility service provider that there is no longer a need for such information to remain confidential. A records custodian receiving such notification shall remove the protection document concerning such person from the file maintained pursuant to subdivision (a)(15)(E), and the identifying information about such person shall be treated in the same manner as the identifying information concerning any other customer of the utility. Before removing the protection document and releasing any identifying information, the records custodian of the utility service provider shall require that the person requesting release of the identifying information maintained as confidential produce sufficient identification to satisfy such custodian that that person is the same person as the person to whom the document was originally granted.

(G) After July 1, 1999, if information is requested from a utility service provider about a person other than the requestor and such request is for information that is in whole or in part identifying information, the records custodian of the utility service provider shall check the separate file containing all protection documents that have been presented to such utility. If the person about whom information is being requested has presented a valid protection document to the records custodian in accordance with the procedure set out in this subdivision (a)(15), and has requested that identifying information about such person be maintained as confidential, the records custodian shall redact or refuse to disclose to the requestor any identifying information about such person.

(H) Nothing in this subdivision (a)(15) shall prevent the district attorney general and counsel for the defendant from providing to each other in a pending criminal case, where the constitutional rights of the defendant require it, information which otherwise would be held confidential under this subdivision (a)(15).

(16) (A) As used in this subdivision (a)(16), unless the context otherwise requires:

(i) "Governmental entity" means the state of Tennessee and any county, municipality, city or other political subdivision of the state of Tennessee;

(ii) "Identifying information" means the home and work addresses and telephone numbers, social security number, and any other information that could reasonably be used to locate the whereabouts of an individual;

(iii) "Protection document" means:

(a) An order of protection issued pursuant to title 36, chapter 3, part 6, that has been granted after proper notice and an opportunity to be heard;

(b) A similar order of protection issued by the court of another jurisdiction;

(c) An extension of an ex parte order of protection granted pursuant to § 36-3-605(a);

(d) A similar extension of an ex parte order of protection granted by a court of competent jurisdiction in another jurisdiction;

(e) A restraining order issued by a court of competent jurisdiction prohibiting violence against the person to whom it is issued;

(f) A court order protecting the confidentiality of certain information issued upon the request of a district attorney general to a victim or witness in a criminal case, whether pending or completed; and

(g) An affidavit from the director of a rape crisis center or domestic violence shelter certifying that an individual is a victim in need of protection; provided, that such affidavit is on a standardized form to be developed and distributed to such centers and shelters by the Tennessee task force against domestic violence.

(B) If the procedure set out in this subdivision (a)(16) is followed, identifying information compiled and maintained by a governmental entity concerning a person who has obtained a valid protection document may be treated as confidential and may not be open for inspection by the public.

(C) For subdivision (a)(16)(B) to be applicable, a copy of the protection document must be presented during regular business hours by the person to whom it was granted to the records custodian of the governmental entity whose records such person seeks to make confidential, and such person must request that all identifying information about such person be maintained as confidential.

(D) The protection document presented must at the time of presentation be in full force and effect. The records custodian may assume that a protection document is in full force and effect if it is on the proper form and if on its face it has not expired.

(E) Upon being presented with a valid protection document, the record custodian may accept receipt of it. If the records custodian does not accept receipt of such document, the records custodian shall explain to the person presenting the document why receipt cannot be accepted and that the identifying information concerning such person will not be maintained as confidential. If the records custodian does accept receipt of the protection document, such records custodian shall maintain it in a separate file containing in alphabetical order all protection documents presented to such custodian pursuant to this subdivision (a)(16). Nothing in this subdivision (a)(16) shall be construed as prohibiting a records custodian from maintaining an electronic file of such protection documents; provided, that the custodian retains the original document presented.

(F) Identifying information concerning a person that is maintained as confidential pursuant to this subdivision (a)(16) shall remain confidential until the person requesting such confidentiality notifies in person the appropriate records custodian of the governmental entity that there is no longer a need for such information to remain confidential. A records custodian receiving such notification shall remove the protection document concerning such person from the file maintained pursuant to subdivision (a)(16)(E), and the identifying information about such person shall be treated in the same manner as identifying information maintained by the governmental entity about other persons. Before removing the protection document and releasing any identifying information, the records custodian of the governmental entity shall require that the



(G) (i) After July 1, 1999, if:

- (a)** Information is requested from a governmental entity about a person other than the person making the request;
- (b)** Such request is for information that is in whole or in part identifying information; and
- (c)** The records custodian of the governmental entity to whom the request was made accepts receipt of protection documents and maintains identifying information as confidential;

(ii) then such records custodian shall check the separate file containing all protection documents that have been presented to such entity. If the person about whom information is being requested has presented a valid protection document to the records custodian in accordance with the procedure set out in this subdivision (a)(16), and has requested that identifying information about such person be maintained as confidential, the records custodian shall redact or refuse to disclose to the requestor any identifying information about such person.

(H) Nothing in this subdivision (a)(16) shall prevent the district attorney general and counsel for the defendant from providing to each other in a pending criminal case, where the constitutional rights of the defendant require it, information which otherwise may be held confidential under this subdivision (a)(16).

(I) In an order of protection case, any document required for filing, other than the forms promulgated by the supreme court pursuant to § 36-3-604(b), shall be treated as confidential and kept under seal except that the clerk may transmit any such document to the Tennessee bureau of investigation, 911 service or emergency response agency or other law enforcement agency.

(17) The telephone number, address and any other information which could be used to locate the whereabouts of a domestic violence shelter, family safety center or rape crisis center may be treated as confidential by a governmental entity, and shall be treated as confidential by a utility service provider as defined in subdivision (a)(15) upon the director of the shelter, family safety center or crisis center giving written notice to the records custodian of the appropriate entity or utility that such shelter, family safety center or crisis center desires that such identifying information be maintained as confidential. The records of family safety centers shall be treated as confidential in the same manner as the records of domestic violence shelters pursuant to § 36-3-623.

(18) Computer programs, software, software manuals, and other types of information manufactured or marketed by persons or entities under legal right and sold, licensed, or donated to Tennessee state boards, agencies, political subdivisions, or higher education institutions shall not be open to public inspection; provided, that computer programs, software, software manuals, and other types of information produced by state or higher education employees at state expense shall be available for inspection as part of an audit or legislative review process.

(19) Credit card account numbers and any related personal identification numbers (PIN) or authorization codes in the possession of the state or a political subdivision thereof shall be maintained as confidential and shall not be open for inspection by members of the public.

(20) (A) For the purposes of this subdivision (a)(20), the following terms shall have the following meaning:

(i) "Consumer" means any person, partnership, limited partnership, corporation, professional corporation, limited liability company, trust, or any other entity, or any user of a utility service;

(ii) "Municipal" and "municipality" means a county, metropolitan government, incorporated city, town of the state, or utility district as created in title 7, chapter 82;

(iii) "Private records" means a credit card number, social security number, tax identification number, financial institution account number, burglar alarm codes, security codes, access codes, and consumer-specific energy and water usage data except for aggregate monthly billing information; and

(iv) "Utility" includes any public electric generation system, electric distribution system, water storage or processing system, water distribution system, gas storage system or facilities related thereto, gas distribution system, wastewater system, telecommunications system, or any services similar to any of the foregoing.

(B) The private records of any utility shall be treated as confidential and shall not be open for inspection by members of the public.

(C) Information made confidential by this subsection (a) shall be redacted wherever possible and nothing in this subsection (a) shall be used to limit or deny access to otherwise public information because a file, document, or data file contains confidential information. For purposes of this section only, it shall be presumed that redaction of such information is possible. The entity requesting the records shall pay all reasonable costs associated with redaction of materials.

(D) Nothing in this subsection (a) shall be construed to limit access to these records by law enforcement agencies, courts, or other governmental agencies performing official functions.

(E) Nothing in this subsection (a) shall be construed to limit access to information made confidential under this subsection (a), when the consumer expressly authorizes the release of such information.

(21) (A) The following records shall be treated as confidential and shall not be open for public inspection:

(i) Records that would allow a person to identify areas of structural or operational vulnerability of a utility service provider or that would permit unlawful disruption to, or interference with, the services provided by a utility service provider;

(ii) All contingency plans of a governmental entity prepared to respond to or prevent any violent incident, bomb threat, ongoing act of violence at a school or business, ongoing act of violence at a place of public gathering, threat involving a weapon of mass destruction, or terrorist incident.

(B) Documents concerning the cost of governmental utility property, the cost of protecting governmental utility property, the cost of identifying areas of structural or operational vulnerability of a governmental utility, the cost of developing contingency plans for a governmental entity, and the identity of vendors providing goods or services to a governmental entity in connection with the foregoing shall not be confidential. However, any documents relating to these subjects shall not be made available to the public unless information that is confidential under this subsection (a) or any other provision of this chapter has been redacted or deleted from the documents.

(C) As used in this subdivision (a)(21):

(i) "Governmental entity" means the state of Tennessee or any county, municipality, city or other political subdivision of the state of Tennessee;



(iii) "Utility service provider" means any entity, whether public or private, that provides electric, gas, water, sewer or telephone service, or any combination of the foregoing, to citizens of the state of Tennessee, whether or not regulated by the Tennessee public utility commission.

(D) Nothing in this subdivision (a)(21) shall be construed to limit access to these records by other governmental agencies performing official functions or to preclude any governmental agency from allowing public access to these records in the course of performing official functions.

(22) The following records shall be treated as confidential and shall not be open for public inspection:

(A) The audit working papers of the comptroller of the treasury and state, county and local government internal audit staffs conducting audits as authorized by § 4-3-304. For purposes of this subdivision (a)(22) "audit working papers" includes, but is not limited to, auditee records, intra-agency and interagency communications, draft reports, schedules, notes, memoranda and all other records relating to an audit or investigation;

(B) All information and records received or generated by the comptroller of the treasury containing allegations of unlawful conduct or fraud, waste or abuse;

(C) All examinations administered by the comptroller of the treasury as part of the assessment certification and education program, including, but not limited to, the total bank of questions from which the tests are developed, the answers, and the answer sheets of individual test takers; and

(D) Survey records, responses, data, identifying information as defined in subdivision (a)(15), intra-agency and interagency communications, and other records received to serve as input for any survey created, obtained, or compiled by the comptroller of the treasury; provided, however, this subdivision (a)(22)(D) shall not apply to any survey conducted by the office of open records counsel, created by § 8-4-601.

(23) All records containing the results of individual teacher evaluations administered pursuant to the policies, guidelines, and criteria adopted by the state board of education under § 49-1-302 shall be treated as confidential and shall not be open to the public. Nothing in this subdivision (a)(23) shall be construed to prevent the LEA, public charter school, state board of education, or department of education from accessing and utilizing such records as required to fulfill their lawful functions. Lawful functions shall include the releasing of such records to parties conducting research in accordance with § 49-1-606(b).

(24) All proprietary information provided to the alcoholic beverage commission shall be treated as confidential and shall not be open for inspection by members of the public. As used in this subdivision (a)(24), "proprietary information" means commercial or financial information which is used either directly or indirectly in the business of any person or company submitting information to the alcoholic beverage commission and which gives such person an advantage or an opportunity to obtain an advantage over competitors who do not know or use such information.

(25) A voluntary association that establishes and enforces bylaws or rules for interscholastic sports competition for secondary schools in this state shall have access to records or information from public, charter, non-public, other schools, school officials and parents or guardians of school children as is required to fulfill its duties and functions. Records or information relating to academic performance, financial status of a student or the student's parent or guardian, medical or psychological treatment or testing, and personal family information in the possession of such association shall be confidential.

(26) (A) Job performance evaluations of the following employees shall be treated as confidential and shall not be open for public inspection:

- (i) Employees of the department of treasury;
- (ii) Employees of the comptroller of the treasury;
- (iii) Employees of the secretary of state's office; and
- (iv) Employees of public institutions of higher education.

(B) For purposes of this subdivision (a)(26), "job performance evaluations" includes, but is not limited to, job performance evaluations completed by supervisors, communications concerning job performance evaluations, self-evaluations of job performance prepared by employees, job performance evaluation scores, drafts, notes, memoranda, and all other records relating to job performance evaluations.

(C) Nothing in this subdivision (a)(26) shall be construed to limit access to those records by law enforcement agencies, courts, or other governmental agencies performing official functions.

(27) E-mail addresses collected by the department of state's division of business services, except those that may be contained on filings submitted pursuant to title 47, chapter 9, or § 55-3-126(f), shall be treated as confidential and shall not be open to inspection by members of the public.

(28) Proposals and statements of qualifications received by a local government entity in response to a personal service, professional service, or consultant service request for proposals or request for qualifications solicitation, and related records, including, but not limited to, evaluations, names of evaluation committee members, and all related memoranda or notes, shall not be open for public inspection until the intent to award the contract to a particular respondent is announced.

(29) (A) No governmental entity shall publicly disclose personally identifying information of any citizen of the state unless:

- (i) Permission is given by the citizen;
- (ii) Distribution is authorized under state or federal law; or
- (iii) Distribution is made:
 - (a) To a consumer reporting agency as defined by the federal Fair Credit Reporting Act (15 U.S.C. §§ 1681 et seq.);
 - (b) To a financial institution subject to the privacy provisions of the federal Gramm Leach Bliley Act (15 U.S.C. § 6802); or
 - (c) To a financial institution subject to the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001 (31 U.S.C. §§ 5311 et seq.).

(B)

(i) This subdivision (a)(29) does not prohibit the use of personally identifying information by a governmental entity in the performance of its functions or the disclosure of personally identifying information to another governmental entity, or an agency of the federal government, or a private person or entity that has been authorized to perform certain duties as a contractor of the governmental entity.



to a consumer reporting agency or financial institution as defined in subdivision (a)(29)(A)(iii) shall be governed by federal law.

(C) For purposes of this subdivision (a)(29), "personally identifying information" means:

- (i)** Social security numbers;
- (ii)** Official state or government issued driver licenses or identification numbers;
- (iii)** Alien registration numbers or passport numbers;
- (iv)** Employer or taxpayer identification numbers;
- (v)** Unique biometric data, such as fingerprints, voice prints, retina or iris images, or other unique physical representations; or
- (vi)** Unique electronic identification numbers, routing codes or other personal identifying data which enables an individual to obtain merchandise or service or to otherwise financially encumber the legitimate possessor of the identifying data.

(b) Any record designated "confidential" shall be so treated by agencies in the maintenance, storage and disposition of such confidential records. These records shall be destroyed in such a manner that they cannot be read, interpreted or reconstructed. The destruction shall be in accordance with an approved records disposition authorization from the public records commission.

(c) Notwithstanding any law to the contrary, any confidential public record in existence more than seventy (70) years shall be open for public inspection by any person unless disclosure of the record is specifically prohibited or restricted by federal law or unless the record is a record of services for a person for mental illness or intellectual and developmental disabilities. This section does not apply to a record concerning an adoption or a record maintained by the office of vital records or by the Tennessee bureau of investigation. For the purpose of providing an orderly schedule of availability for access to such confidential public records for public inspection, all records created and designated as confidential prior to January 1, 1901, shall be open for public inspection on January 1, 1985. All other public records created and designated as confidential after January 1, 1901 and which are seventy (70) years of age on January 1, 1985, shall be open for public inspection on January 1, 1986; thereafter all such records shall be open for public inspection pursuant to this part after seventy (70) years from the creation date of such records.

(d) Records of any employee's identity, diagnosis, treatment, or referral for treatment that are maintained by any state or local government employee assistance program shall be confidential; provided, that any such records are maintained separately from personnel and other records regarding such employee that are open for inspection. For purposes of this subsection (d), "employee assistance program" means any program that provides counseling, problem identification, intervention, assessment, or referral for appropriate diagnosis and treatment, and follow-up services to assist employees of such state or local governmental entity who are impaired by personal concerns including, but not limited to, health, marital, family, financial, alcohol, drug, legal, emotional, stress or other personal concerns which may adversely affect employee job performance.

(e) Unpublished telephone numbers in the possession of emergency communications districts created pursuant to title 7, chapter 86, or the emergency communications board created pursuant to § 7-86-302 or its designated agent shall be treated as confidential and shall not be open for inspection by members of the public until such time as any provision of the service contract between the telephone service provider and the consumer providing otherwise is effectuated; provided, that addresses held with such unpublished telephone numbers, or addresses otherwise collected or compiled, and in the possession of emergency communications districts created pursuant to title 7, part 86, or the emergency communications board created pursuant to § 7-86-302 or its designated agent shall be made available upon written request to any county election commission for the purpose of compiling a voter mailing list for a respective county.

(f) (1) The following records or information of any state, county, municipal or other public employee or former employee, or applicant to such position, or of any law enforcement officer commissioned pursuant to § 49-7-118, in the possession of a governmental entity or any person in its capacity as an employer shall be treated as confidential and shall not be open for inspection by members of the public:

- (A)** Home telephone and personal cell phone numbers;
- (B)** Bank account and individual health savings account, retirement account and pension account information; provided, that nothing shall limit access to financial records of a governmental employer that show the amounts and sources of contributions to the accounts or the amount of pension or retirement benefits provided to the employee or former employee by the governmental employer;
- (C)** Social security number;
- (D)**
 - (i)** Residential information, including the street address, city, state and zip code, for any state employee; and
 - (ii)** Residential street address for any county, municipal or other public employee;
- (E)** Driver license information except where driving or operating a vehicle is part of the employee's job description or job duties or incidental to the performance of the employee's job;
- (F)** The information listed in subdivisions (f)(1)(A)-(E) of immediate family members, whether or not the immediate family member resides with the employee, or household members;
- (G)** Emergency contact information, except for that information open to public inspection in accordance with subdivision (f)(1)(D)(ii); and
- (H)** Personal, nongovernment issued, email address.

(2) Information made confidential by this subsection (f) shall be redacted wherever possible and nothing in this subsection (f) shall be used to limit or deny access to otherwise public information because a file, a document, or data file contains confidential information.

(3) Nothing in this subsection (f) shall be construed to limit access to these records by law enforcement agencies, courts, or other governmental agencies performing official functions.

(4) Nothing in this subsection (f) shall be construed to close any personnel records of public officers which are currently open under state law.

(5) Nothing in this subsection (f) shall be construed to limit access to information made confidential under this subsection (f), when the employee expressly authorizes the release of such information.

(6) Notwithstanding any provision to the contrary, the bank account information for any state, county, municipal, or other public employee, former employee or applicant to such position, or any law enforcement officer commissioned pursuant to § 49-7-118,



information that shall be kept confidential shall include, but not be limited to bank account numbers, transit routing numbers and the name of the financial institutions.

(7) Notwithstanding any provision to the contrary, the following information that is received, compiled or maintained by the department of treasury relating to the department's investment division employees who are so designated in writing by the state treasurer shall be kept confidential and not open for inspection by members of the public: holdings reports, confirmations, transaction reports and account statements relative to securities, investments or other assets disclosed by the employee to the employer, or authorized by the employee to be released to the employer directly or otherwise.

(8) (A) Any person required by law to treat information described in subdivision (f)(1)(D) as confidential commits an offense if such information pertains to a law enforcement officer and:

- (i)** The person acts with criminal negligence, as defined in § 39-11-106, in releasing the information to the public; or
- (ii)** The person knows the information is to be treated as confidential and intentionally releases the information to the public.

(B)

(i) A violation of subdivision (f)(8)(A)(i) is a Class B misdemeanor punishable only by a fine of five hundred dollars (\$500).

(ii) A violation of subdivision (f)(8)(A)(ii) is a Class A misdemeanor.

(C) Subdivision (f)(8)(A) shall not apply if:

(i) The law enforcement officer whose information is treated as confidential under subdivision (f)(1)(D) expressly authorizes the release of such information; or

(ii) The information is released pursuant to court order.

(g) (1) (A) (i) All law enforcement personnel information in the possession of any entity or agency in its capacity as an employer, including officers commissioned pursuant to § 49-7-118, shall be open for inspection as provided in § 10-7-503(a), except personal information shall be redacted where there is a reason not to disclose as determined by the chief law enforcement officer or the chief law enforcement officer's designee.

(ii) When a request to inspect includes personal information and the request is for a professional, business, or official purpose, the chief law enforcement officer or custodian shall consider the specific circumstances to determine whether there is a reason not to disclose and shall release all information, except information made confidential in subsection (f), if there is not such a reason. In all other circumstances, the officer shall be notified prior to disclosure of the personal information and shall be given a reasonable opportunity to be heard and oppose the release of the information. Nothing in this subdivision (g)(1) shall be construed to limit the requestor's right to judicial review set out in § 10-7-505.

(iii) The chief law enforcement officer shall reserve the right to segregate information that could be used to identify or to locate an officer designated as working undercover.

(B) In addition to the requirements of § 10-7-503(c), the request for a professional, business, or official purpose shall include the person's business address, business telephone number and email address. The request may be made on official or business letterhead and the person making the request shall provide the name and contact number or email address for a supervisor for verification purposes.

(C) If the chief law enforcement official, the chief law enforcement official's designee, or the custodian of the information decides to withhold personal information, a specific reason shall be given to the requestor in writing within two (2) business days, and the file shall be released with the personal information redacted.

(D) For purposes of this subsection (g), personal information shall include the officer's residential address, home and personal cellular telephone number; place of employment; name, work address and telephone numbers of the officer's immediate family; name, location, and telephone number of any educational institution or daycare provider where the officer's spouse or child is enrolled.

(2) Nothing in this subsection (g) shall be used to limit or deny access to otherwise public information because a file, a document, or data file contains some information made confidential by subdivision (g)(1).

(3) Nothing in this subsection (g) shall be construed to limit access to these records by law enforcement agencies, courts, or other governmental agencies performing official functions.

(4) Except as provided in subdivision (g)(1), nothing in this subsection (g) shall be construed to close personnel records of public officers, which are currently open under state law.

(5) Nothing in this subsection (g) shall be construed to limit access to information made confidential by subdivision (g)(1), when the employee expressly authorizes the release of such information.

(h)

(1) Notwithstanding any other law to the contrary, those parts of the record identifying an individual or entity as a person or entity who or that has been or may in the future be directly involved in the process of executing a sentence of death shall be treated as confidential and shall not be open to public inspection. For the purposes of this section "person or entity" includes, but is not limited to, an employee of the state who has training related to direct involvement in the process of executing a sentence of death, a contractor or employee of a contractor, a volunteer who has direct involvement in the process of executing a sentence of death, or a person or entity involved in the procurement or provision of chemicals, equipment, supplies and other items for use in carrying out a sentence of death. Records made confidential by this section include, but are not limited to, records related to remuneration to a person or entity in connection with such person's or entity's participation in or preparation for the execution of a sentence of death. Such payments shall be made in accordance with a memorandum of understanding between the commissioner of correction and the commissioner of finance and administration in a manner that will protect the public identity of the recipients; provided, that, if a contractor is employed to participate in or prepare for the execution of a sentence of death, the amount of the special payment made to such contractor pursuant to the contract shall be reported by the commissioner of correction to the comptroller of the treasury and such amount shall be a public record.

(2) Information made confidential by this subsection (h) shall be redacted wherever possible and nothing in this subsection (h) shall be used to limit or deny access to otherwise public information because a file, a document, or data file contains confidential information.

(i) (1) Information that would allow a person to obtain unauthorized access to confidential information or to government property shall be maintained as confidential. For the purpose of this section, "government property" includes electronic information processing systems,



Tennessee. Such records include:

- (A) Plans, security codes, passwords, combinations, or computer programs used to protect electronic information and government property;
 - (B) Information that would identify those areas of structural or operational vulnerability that would permit unlawful disruption to, or interference with, the services provided by a governmental entity; and
 - (C) Information that could be used to disrupt, interfere with, or gain unauthorized access to electronic information or government property.
- (2) Information made confidential by this subsection (i) shall be redacted wherever possible and nothing in this subsection (i) shall be used to limit or deny access to otherwise public information because a file, document, or data file contains confidential information.

(3)

- (A) Documents concerning the cost of protecting government property or electronic information shall not be confidential.
- (B) The identity of a vendor that provides to the state goods and services used to protect electronic information processing systems, telecommunication and other communication systems, data storage systems, government employee information, or citizen information shall be confidential.
- (C) The identity of a vendor that provides to a governmental entity other than the state goods and services used to protect electronic information processing systems, telecommunication and other communication systems, data storage systems, government employee information, or citizen information shall not be confidential; provided, that the identity of the vendor shall be confidential if the governing body of the governmental entity votes affirmatively to make such information confidential.
- (D) Notwithstanding subdivisions (i)(3)(B) and (C), a governmental entity shall, upon request, provide the identity of a vendor to the comptroller of the treasury, the fiscal review committee of the general assembly, and any member of the general assembly. If the identity of the vendor is confidential under subdivision (i)(3)(B) or (i)(3)(C), the comptroller, fiscal review committee, or member shall exercise reasonable care in maintaining the confidentiality of the identity of the vendor obtained under this subdivision (i)(3)(D).

(j)

- (1) Notwithstanding any other law to the contrary, identifying information compiled and maintained by the department of correction and the board of parole concerning any person shall be confidential when the person has been notified or requested that notification be provided to the person regarding the status of criminal proceedings or of a convicted felon incarcerated in a department of correction institution, county jail or workhouse or under state supervised probation or parole pursuant to § 40-28-505, § 40-38-103, § 40-38-110, § 40-38-111, § 41-21-240 or § 41-21-242.
- (2) For purposes of subdivision (j)(1), "identifying information" means the name, home and work addresses, telephone numbers and social security number of the person being notified or requesting that notification be provided.

(k) The following information regarding victims who apply for compensation under the Criminal Injuries Compensation Act, compiled in title 29, chapter 13, shall be treated as confidential and shall not be open for inspection by members of the public:

- (1) Residential information, including the street address, city, state and zip code;
- (2) Home telephone and personal cell phone numbers;
- (3) Social security number; and
- (4) The criminal offense from which the victim is receiving compensation.

(l)

- (1) All applications, certificates, records, reports, legal documents and petitions made or information received pursuant to title 37 that directly or indirectly identifies a child or family receiving services from the department of children's services or that identifies the person who made a report of harm pursuant to § 37-1-403 or § 37-1-605 shall be confidential and shall not be open for public inspection, except as provided by §§ 37-1-131, 37-1-409, 37-1-612, 37-5-107 and 49-6-3051.
- (2) The information made confidential pursuant to subdivision (l)(1) includes information contained in applications, certifications, records, reports, legal documents and petitions in the possession of not only the department of children's services but any state or local agency, including, but not limited to, law enforcement and the department of education.

(m) (1) Information and records that are directly related to the security of any government building shall be maintained as confidential and shall not be open to public inspection. For purposes of this subsection (m), "government building" means any building that is owned, leased or controlled, in whole or in part, by the state of Tennessee or any county, municipality, city or other political subdivision of the state of Tennessee. Such information and records include, but are not limited to:

- (A) Information and records about alarm and security systems used at the government building, including codes, passwords, wiring diagrams, plans and security procedures and protocols related to the security systems;
- (B) Security plans, including security-related contingency planning and emergency response plans;
- (C) Assessments of security vulnerability;
- (D) Information and records that would identify those areas of structural or operational vulnerability that would permit unlawful disruption to, or interference with, the services provided by a governmental entity; and
- (E) Surveillance recordings, whether recorded to audio or visual format, or both, except segments of the recordings may be made public when they include an act or incident involving public safety or security or possible criminal activity. In addition, if the recordings are relevant to a civil action or criminal prosecution, then the recordings may be released in compliance with a subpoena or an order of a court of record in accordance with the Tennessee rules of civil or criminal procedure. The court or administrative judge having jurisdiction over the proceedings shall issue appropriate protective orders, when necessary, to ensure that the information is disclosed only to appropriate persons. Release of any segment or segments of the recordings shall not be construed as waiving the confidentiality of the remaining segments of the audio or visual tape.

- (2) Information made confidential by this subsection (m) shall be redacted wherever possible and nothing in this subsection (m) shall be used to limit or deny access to otherwise public information because a file or document contains confidential information.



(A) Discount, rebate, pricing or other financial arrangements at the individual drug level between pharmaceutical manufacturers, pharmaceutical wholesalers/distributors, and pharmacy benefits managers, as defined in § 56-7-3102, that a proposer:

- (i)** Submits to the state in response to a request for proposals or other procurement methods for pharmacy-related benefits or services;
- (ii)** Includes in its cost or price proposal, or provides to the state after the notice of intended award of the contract is issued, where the proposer is the apparent contract awardee; and
- (iii)** Explicitly marks as confidential and proprietary; and

(B) Discount, rebate, pricing or other financial arrangements at the individual provider level between health care providers and health insurance entities, as defined in § 56-7-109, insurers, insurance arrangements and third party administrators that a proposer:

- (i)** Submits to the state in response to a request for proposals or other procurement method after the notice of intended award of the contract is issued, where the proposer is the apparent contract awardee, in response to a request by the state for additional information; and
- (ii)** Explicitly marks as confidential and proprietary.

(2)

(A) Information made confidential by subdivision (n)(1) shall be redacted wherever possible; and nothing contained in this subsection (n) shall be used to limit or deny access to otherwise public information because a file, document, or data file contains confidential information. The confidentiality established by subdivision (n)(1)(B) is applicable only to information submitted to the state after completion of the evaluation period; and provision of the notice of intended award of the contract and such information shall only be used to validate the accuracy of the apparent contract awardee's proposal and shall not be used to alter the scope of the information required by the state's procurement document requesting proposals. Any report produced by the state, or on the state's behalf, utilizing the information made confidential by subdivision (n)(1) (B) shall not be considered confidential hereunder so long as such report is disclosed in an aggregate or summary format without disclosing discount, rebate, pricing or other financial arrangements at the individual provider level.

(B) The comptroller of the treasury, for the purpose of conducting audits or program evaluations, shall have access to the discount, rebate, pricing and descriptions of other financial arrangements cited in this subsection (n) as submitted in a procurement or as a report to the contractor; provided, however, that no official, employee or agent of the state of Tennessee may release or provide for the release, in any form, of information subject to confidential custody under this subsection (n).

(o) (1) Except as provided in subdivisions (o)(2)-(4), the following information and records are confidential, not open or available for public inspection and shall not be released in any manner:

(A) All information contained in any application for a handgun carry permit issued pursuant to § 39-17-1351, a permit renewal application, or contained in any materials required to be submitted in order to obtain such a permit;

(B) All information provided to any state or federal agency, to any county, municipality, or other political subdivision, to any official, agent, or employee of any state or federal agency, or obtained by any state or federal agency in the course of its investigation of an applicant for a handgun carry permit; and

(C) Any and all records maintained relative to an application for a handgun carry permit issued pursuant to § 39-17-1351, a permit renewal application, the issuance, renewal, expiration, suspension, or revocation of a handgun carry permit, or the result of any criminal history record check conducted under this part.

(2) Any information or other records regarding an applicant or permit holder may be released to a law enforcement agency for the purpose of conducting an investigation or prosecution, or for determining the validity of a handgun carry permit, or to a child support enforcement agency for purposes of child support enforcement, but shall not be publicly disclosed except as evidence in a criminal or child support enforcement proceeding.

(3) Any person or entity may request the department of safety to search its handgun permit holder database to determine if a named person has a Tennessee handgun carry permit, as of the date of the request, if the person or entity presents with the request a judgment of conviction, criminal history report, order of protection, or other official government document or record that indicates the named person is not eligible to possess a handgun carry permit under the requirements of § 39-17-1351.

(4) Nothing in this subsection (o) shall prohibit release of the handgun carry permit statistical reports authorized by § 39-17-1351(s).

(p) Information, records, and plans that are related to school security, the district-wide school safety plans or the building-level school safety plans shall not be open to public inspection. Nothing in this part shall be interpreted to prevent school administrators of an LEA from discussing or distributing information to parents or legal guardians of children attending the school regarding procedures for contacting or obtaining a child following a natural disaster.

(q) (1) Where a defendant has plead guilty to, or has been convicted of, and has been sentenced for a sexual offense or violent sexual offense specified in § 40-39-202, the following information regarding the victim of the offense shall be treated as confidential and shall not be open for inspection by members of the public:

- (A)** Name, unless waived pursuant to subdivision (q)(2);
- (B)** Home, work and electronic mail addresses;
- (C)** Telephone numbers;
- (D)** Social security number; and
- (E)** Any photographic or video depiction of the victim.

(2)

(A) At any time after the defendant or defendants in a case have been sentenced for an offense specified in subdivision (q)(1), the victim of such offense whose name is made confidential pursuant to subdivision (q)(1)(A) may waive such provision and allow the victim's name to be obtained in the same manner as other public records.

(B) The district attorney general prosecuting the case shall notify the victim that the victim has the right to waive the confidentiality of the information set forth in subdivision (q)(1)(A).



(3) Nothing in this subsection (q) shall prevent the district attorney general or attorney general and reporter and counsel for a defendant from providing to each other in a pending criminal case or appeal, where the constitutional rights of the defendant require it, information which otherwise may be held confidential under this subsection (q).

(4) Nothing in this subsection (q) shall be used to limit or deny access to otherwise public information because a file, document, or data file contains some information made confidential by subdivision (q)(1); provided, that confidential information shall be redacted before any access is granted to a member of the public.

(5) Nothing in this subsection (q) shall be construed to limit access to records by law enforcement agencies, courts, or other governmental agencies performing official functions.

(r) Notwithstanding any provision to the contrary, any bank account information that is received, compiled, or maintained by a state governmental agency, shall be confidential and shall not be an open record for inspection by members of the public. The bank account information that shall be kept confidential includes, but is not limited to, debit card numbers and any related personal identification numbers (PINs) or authorization codes, bank account numbers, and transit routing numbers.

(s) The records of the insurance verification program created pursuant to the James Lee Atwood Jr. Law, compiled in title 55, chapter 12, part 2, in the possession of the department of revenue or its agent, the department of safety, the department of commerce and insurance, law enforcement, and the judiciary pursuant to the James Lee Atwood Jr. Law, shall be treated as confidential and shall not be open for inspection by members of the public. Subsection (c) shall not apply to the records described in this subsection (s).

(t) (1) The following information concerning the victim of a criminal offense who is a minor shall be treated as confidential and shall not be open for inspection by members of the public:

(A) Name, unless waived pursuant to subdivision (t)(2);

(B) Home, work, and electronic mail addresses;

(C) Telephone numbers;

(D) Social security number;

(E) Any photographic or video depiction of the minor victim; and

(F) Whether the defendant is related to the victim unless the relationship is an essential element of the offense.

(2) The custodial parent or legal guardian of the minor victim of an offense whose name is made confidential pursuant to subdivision (t)(1)(A) may petition a court of record to waive confidentiality and allow the minor victim's name to be obtained in the same manner as other public records. Upon finding good cause shown, the court shall enter the order granting the waiver.

(3) This subsection (t) shall not be construed to:

(A) Restrict the application of Rule 16 of the Tennessee Rules of Criminal Procedure in any court or the disclosure of information required of counsel by the state or federal constitution;

(B) Limit or deny access to otherwise public information because a file, document, or data file contains some information made confidential by subdivision (t)(1); provided, that confidential information shall be redacted before any access is granted to a member of the public;

(C) Limit access to records by law enforcement agencies, courts, or other governmental agencies performing official functions; or

(D) Limit or prevent law enforcement from releasing information included in this subsection (t) for the purposes of locating and identifying missing, exploited, or abducted minors.

[Effective until July 1, 2022. See the Compiler's Notes.]

(u) (1) Video taken by a law enforcement body camera that depicts the following shall be treated as confidential and not subject to public inspection:

(A) Minors, when taken within a school that serves any grades from kindergarten through grade twelve (K-12);

(B) The interior of a facility licensed under title 33 or title 68; or

(C) The interior of a private residence that is not being investigated as a crime scene.

(2) Nothing in this subsection (u) shall prevent the district attorney general or attorney general and reporter and counsel for a defendant charged with a criminal offense from providing to each other in a pending criminal case or appeal, where the constitutional rights of the defendant require it, information which otherwise may be held confidential under this subsection (u).

(3) Nothing in this subsection (u) shall be used to limit or deny access to otherwise public information because a file, document, or data file contains some information made confidential by subdivision (u)(1); provided, that confidential information shall be redacted before any access is granted to a member of the public.

(4) Nothing in this subsection (u) shall be construed to limit access to records by law enforcement agencies, courts, or other governmental agencies performing official functions.

(5) This subsection (u) is deleted on July 1, 2022, and shall no longer be effective on and after such date.

(v) Notwithstanding any law to the contrary, examination questions, answer sheets, scoring keys, and other examination data used for the purpose of licensure, certification, or registration of health professionals under title 63 or title 68 shall be treated as confidential and shall not be open for inspection by members of the public; provided, however, that:

(1) A person who has taken such an examination has the right to review the person's own completed examination; and

(2) Final examination scores of persons licensed, certified, or registered as health professionals under title 63 or title 68 shall be open for inspection by members of the public, upon request.



History

27; 1990, ch. 888, § 1; 1991, ch. 129, § 1; 1992, ch. 823, § 1; 1996, ch. 724, § 1; 1996, ch. 745, § 16; 1996, ch. 1079, § 29; 1997, ch. 84, § 1; 1997, ch. 290, § 1; 1997, ch. 292, § 1; 1998, ch. 1075, § 1; 1999, ch. 176, §§ 1, 2; 1999, ch. 199, § 1; 1999, ch. 344, §§ 1, 2, 4; 1999, ch. 514, § 2; 2000, ch. 562, § 1; 2000, ch. 783, § 10; 2001, ch. 259, §§ 1, 2; 2002, ch. 730, § 53; 2002, ch. 769, § 1; 2002, ch. 819, § 1; 2002, ch. 849, § 12; 2003, ch. 105, § 1; 2003, ch. 201, § 1; 2003, ch. 295, § 1; 2004, ch. 434, § 1; 2004, ch. 673, § 21; 2005, ch. 47, § 1; 2005, ch. 474, § 6; 2006, ch. 665, § 1; 2007, ch. 178, § 1; 2007, ch. 425, §§ 2, 3; 2008, ch. 853, §§ 1-3; 2008, ch. 1011, § 3; 2009, ch. 176, § 1; 2009, ch. 310, §§ 1, 2; 2009, ch. 328, § 1; 2009, ch. 358, § 1; 2009, ch. 368, § 5; 2009, ch. 567, § 1; 2010, ch. 710, § 1; 2011, ch. 151, § 3; 2011, ch. 158, § 6; 2012, ch. 577, § 1; 2012, ch. 648, § 1; 2012, ch. 798, § 5; 2012, ch. 811, § 1; 2012, ch. 848, § 6; 2012, ch. 877, § 1; 2012, ch. 1082, § 1; 2013, ch. 15, § 1; 2013, ch. 229, §§ 1-5; 2013, ch. 284, § 1; 2013, ch. 314, § 1; 2014, ch. 569, § 1; 2014, ch. 717, § 1; 2014, ch. 804, § 1; 2014, ch. 841, §§ 1-3; 2015, ch. 50, §§ 1, 2; 2015, ch. 169, § 1; 2015, ch. 181, § 1; 2015, ch. 211, § 2; 2015, ch. 217, § 1; 2015, ch. 415, § 1; 2015, ch. 511, § 6; 2016, ch. 618, § 1; 2016, ch. 686, § 1; 2016, ch. 722, § 5; 2016, ch. 1009, § 1; 2017, ch. 94, §§ 30, 31; 2017, ch. 113, § 1; 2017, ch. 114, §§ 1-3; 2017, ch. 192, § 8; 2017, ch. 240, § 1; 2017, ch. 255, § 1; 2017, ch. 296, § 1; 2017, ch. 308, § 1.

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20 U.S. Code § 1232g - Family educational and privacy rights

(a) CONDITIONS FOR AVAILABILITY OF FUNDS TO EDUCATIONAL AGENCIES OR INSTITUTIONS; INSPECTION AND REVIEW OF EDUCATION RECORDS; SPECIFIC INFORMATION TO BE MADE AVAILABLE; PROCEDURE FOR ACCESS TO EDUCATION RECORDS; REASONABLENESS OF TIME FOR SUCH ACCESS; HEARINGS; WRITTEN EXPLANATIONS BY PARENTS; DEFINITIONS

(1)

(A) No funds shall be made available under any applicable program to any educational agency or institution which has a policy of denying, or which effectively prevents, the parents of students who are or have been in attendance at a school of such agency or at such institution, as the case may be, the right to inspect and review the education records of their children. If any material or document in the education record of a student includes information on more than one student, the parents of one of such students shall have the right to inspect and review only such part of such material or document as relates to such student or to be informed of the specific information contained in such part of such material. Each educational agency or institution shall establish appropriate procedures for the granting of a request by parents for access to the education records of their children within a reasonable period of time, but in no case more than forty-five days after the request has been made.

(B) No funds under any applicable program shall be made available to any State educational agency (whether or not that agency is an educational agency or institution under this section) that has a policy of denying, or effectively prevents, the parents of students the right to inspect and review the education records maintained by the State educational agency on their children who are or have been in attendance at any school of an educational agency or institution that is subject to the provisions of this section.

(C) The first sentence of subparagraph (A) shall not operate to make available to students in institutions of postsecondary education the following materials:

(i) financial records of the parents of the student or any information contained therein;

(ii) confidential letters and statements of recommendation, which were placed in the education records prior to January 1, 1975, if such letters or statements are not used for purposes other than those for which they were specifically intended;

(iii) if the student has signed a waiver of the student's right of access under this subsection in accordance with subparagraph (D), confidential recommendations

(I) respecting admission to any educational agency or institution,

(II) respecting an application for employment, and

(III) respecting the receipt of an honor or honorary recognition.

(D) A student or a person applying for admission may waive his right of access to confidential statements described in clause (iii) of subparagraph (C), except that such waiver shall apply to recommendations only if (i) the student is, upon request, notified of the names of all persons making confidential recommendations and (ii) such recommendations are used solely for the purpose for which they were specifically intended. Such waivers may not be required as a condition for admission to, receipt of financial aid from, or receipt of any other services or benefits from such agency or institution.

(2) No funds shall be made available under any applicable program to any educational agency or institution unless the parents of students who are or have been in attendance at a school of such agency or at such institution are provided an opportunity for a hearing by such agency or institution, in accordance with regulations of the Secretary, to challenge the content of such student's education records, in order to insure that the records are not inaccurate, misleading, or otherwise in violation of the privacy rights of students, and to provide an opportunity for the correction or deletion of any such inaccurate, misleading or otherwise inappropriate data contained therein and to insert into such records a written explanation of the parents respecting the content of such records.

(3) For the purposes of this section the term "educational agency or institution" means any public or private agency or institution which is the recipient of funds under any applicable program.

(4)

(A) For the purposes of this section, the term "education records" means, except as may be provided otherwise in subparagraph (B), those records, files, documents, and other materials which—

(i) contain information directly related to a student; and

(ii) are maintained by an educational agency or institution or by a person acting for such agency or institution.

(B) The term "education records" does not include—

(i) records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute;

(ii) records maintained by a law enforcement unit of the educational agency or institution that were created by that law enforcement unit for the purpose of law enforcement;

(iii) in the case of persons who are employed by an educational agency or institution but who are not in attendance at such agency or institution, records made and maintained in the normal course of business which relate exclusively to such person in that person's capacity as an employee and are not available for use for any other purpose; or

(iv) records on a student who is eighteen years of age or older, or is attending an institution of postsecondary education, which are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his professional or paraprofessional capacity, or assisting in that capacity, and which are made, maintained, or used only in connection with the provision of treatment to the student, and are not available to anyone other

than persons providing such treatment, except that such records can be personally reviewed by a physician or other appropriate professional of the student's choice.

(5)

(A) For the purposes of this section the term "directory information" relating to a student includes the following: the student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended by the student.

(B) Any educational agency or institution making public directory information shall give public notice of the categories of information which it has designated as such information with respect to each student attending the institution or agency and shall allow a reasonable period of time after such notice has been given for a parent to inform the institution or agency that any or all of the information designated should not be released without the parent's prior consent.

(6) For the purposes of this section, the term "student" includes any person with respect to whom an educational agency or institution maintains education records or personally identifiable information, but does not include a person who has not been in attendance at such agency or institution.

(b) RELEASE OF EDUCATION RECORDS; PARENTAL CONSENT REQUIREMENT; EXCEPTIONS; COMPLIANCE WITH JUDICIAL ORDERS AND SUBPOENAS; AUDIT AND EVALUATION OF FEDERALLY-SUPPORTED EDUCATION PROGRAMS; RECORDKEEPING

(1) No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of permitting the release of education records (or personally identifiable information contained therein other than directory information, as defined in paragraph (5) of subsection (a)) of students without the written consent of their parents to any individual, agency, or organization, other than to the following—

(A) other school officials, including teachers within the educational institution or local educational agency, who have been determined by such agency or institution to have legitimate educational interests, including the educational interests of the child for whom consent would otherwise be required;

(B) officials of other schools or school systems in which the student seeks or intends to enroll, upon condition that the student's parents be notified of the transfer, receive a copy of the record if desired, and have an opportunity for a hearing to challenge the content of the record;

(C)

(i) authorized representatives of (I) the Comptroller General of the United States, (II) the Secretary, or (III) State educational authorities, under the conditions set forth in paragraph (3), or (ii) authorized representatives of the Attorney General for law enforcement purposes under the same conditions as apply to the Secretary under paragraph (3);

(D) in connection with a student's application for, or receipt of, financial aid;

(E) State and local officials or authorities to whom such information is specifically allowed to be reported or disclosed pursuant to State statute adopted—

(i) before November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and such system's ability to effectively serve the student whose records are released, or

(ii) after November 19, 1974, if—

(I) the allowed reporting or disclosure concerns the juvenile justice system and such system's ability to effectively serve, prior to adjudication, the student whose records are released; and

(II) the officials and authorities to whom such information is disclosed certify in writing to the educational agency or institution that the information will not be disclosed to any other party except as provided under State law without the prior written consent of the parent of the student.^[1]

(F) organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students and their parents by persons other than representatives of such organizations and such information will be destroyed when no longer needed for the purpose for which it is conducted;

(G) accrediting organizations in order to carry out their accrediting functions;

(H) parents of a dependent student of such parents, as defined in section 152 of title 26;

(I) subject to regulations of the Secretary, in connection with an emergency, appropriate persons if the knowledge of such information is necessary to protect the health or safety of the student or other persons;

(J)

(i) the entity or persons designated in a Federal grand jury subpoena, in which case the court shall order, for good cause shown, the educational agency or institution (and any officer, director, employee, agent, or attorney for such agency or institution) on which the subpoena is served, to not disclose to any person the existence or contents of the subpoena or any information furnished to the grand jury in response to the subpoena; and

(ii) the entity or persons designated in any other subpoena issued for a law enforcement purpose, in which case the court or other issuing agency may order, for good cause shown, the educational agency or institution (and any officer, director, employee, agent, or attorney for such agency or institution) on which the subpoena is served, to not disclose to any person the existence or contents of the subpoena or any information furnished in response to the subpoena;

(K) the Secretary of Agriculture, or authorized representative from the Food and Nutrition Service or contractors acting on behalf of the Food and Nutrition Service, for the purposes of conducting program monitoring, evaluations, and performance measurements of State and local educational and other agencies and institutions receiving funding or providing benefits of 1 or more programs authorized under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) for which the results will be reported in an aggregate form that does not identify any individual, on the conditions that—

(i) any data collected under this subparagraph shall be protected in a manner that will not permit the personal identification of students and their parents by other than the authorized representatives of the Secretary; and

(ii) any personally identifiable data shall be destroyed when the data are no longer needed for program monitoring, evaluations, and performance measurements; and

(L) an agency caseworker or other representative of a State or local child welfare agency, or tribal organization (as defined in section 5304 of title 25), who has the right to access a student's case plan, as defined and determined by the State or tribal organization, when such agency or organization is legally responsible, in accordance with State or tribal law, for the care and protection of the student, provided that the education records, or the personally identifiable information contained in such records, of the student will not be disclosed by such agency or organization, except to an individual or entity engaged in addressing the student's education needs and authorized by such agency or organization to receive such disclosure and such disclosure is consistent with the State or tribal laws applicable to protecting the confidentiality of a student's education records.

Nothing in subparagraph (E) of this paragraph shall prevent a State from further limiting the number or type of State or local officials who will continue to have access thereunder.

(2) No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of releasing, or providing access to, any personally identifiable information in education records other than directory information, or as is permitted under paragraph (1) of this subsection, unless—

(A) there is written consent from the student's parents specifying records to be released, the reasons for such release, and to whom, and with a copy of the records to be released to the student's parents and the student if desired by the parents, or

(B) except as provided in paragraph (1)(J), such information is furnished in compliance with judicial order, or pursuant to any lawfully issued subpoena, upon condition that parents and the students are notified of all such orders or subpoenas in advance of the compliance therewith by the educational institution or agency, except when a parent is a party to a court proceeding involving child abuse and neglect (as defined in section 3 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 note)) or dependency matters, and the order is issued in the context of that proceeding, additional notice to the parent by the educational agency or institution is not required.

(3) Nothing contained in this section shall preclude authorized representatives of (A) the Comptroller General of the United States, (B) the Secretary, or (C) State educational authorities from having access to student or other records which may be necessary in connection with the audit and evaluation of Federally-supported education programs, or in connection with the enforcement of the Federal legal requirements which relate to such programs: *Provided*, That except when collection of personally identifiable information is specifically authorized by Federal law, any data collected by such officials shall be protected in a manner which will not permit the personal identification of students and their parents by other than those officials, and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, and enforcement of Federal legal requirements.

(4)

(A) Each educational agency or institution shall maintain a record, kept with the education records of each student, which will indicate all individuals (other than those specified in paragraph (1)(A) of this subsection), agencies, or organizations which have requested or obtained access to a student's education records maintained by such educational agency or institution, and which will indicate specifically the legitimate interest that each such person, agency, or organization has in obtaining this information. Such record of access shall be available only to parents, to the school official and his assistants who are responsible for the custody of such records, and to persons or organizations authorized in, and under the conditions of, clauses (A) and (C) of paragraph (1) as a means of auditing the operation of the system.

(B) With respect to this subsection, personal information shall only be transferred to a third party on the condition that such party will not permit any other party to have access to such information without the written consent of the parents of the student. If a third party outside the educational agency or institution permits access to information in violation of paragraph (2)(A), or fails to destroy information in violation of paragraph (1)(F), the educational agency or institution shall be prohibited from permitting access to information from education records to that third party for a period of not less than five years.

(5) Nothing in this section shall be construed to prohibit State and local educational officials from having access to student or other records which may be necessary in connection with the audit and evaluation of any federally or State supported education program or in connection with the enforcement of the Federal legal requirements which relate to any such program, subject to the conditions specified in the proviso in paragraph (3).

(6)

(A) Nothing in this section shall be construed to prohibit an institution of postsecondary education from disclosing, to an alleged victim of any crime of violence (as that term is defined in section 16 of title 18), or a nonforcible sex offense, the final results of any disciplinary proceeding conducted by such institution against the alleged perpetrator of such crime or offense with respect to such crime or offense.

(B) Nothing in this section shall be construed to prohibit an institution of postsecondary education from disclosing the final results of any disciplinary proceeding conducted by such institution against a student who is an alleged perpetrator of any crime of violence (as that term is defined in section 16 of title 18), or a nonforcible sex offense, if the institution determines as a result of that disciplinary proceeding that the student committed a violation of the institution's rules or policies with respect to such crime or offense.

(C) For the purpose of this paragraph, the final results of any disciplinary proceeding—

(i) shall include only the name of the student, the violation committed, and any sanction imposed by the institution on that student; and

(ii) may include the name of any other student, such as a victim or witness, only with the written consent of that other student.

(7)

(A) Nothing in this section may be construed to prohibit an educational institution from disclosing information provided to the institution under section 14071 ⁽²⁾ of title 42 concerning registered sex offenders who are required to register under such section.

(B) The Secretary shall take appropriate steps to notify educational institutions that disclosure of information described in subparagraph (A) is permitted.

(c) SURVEYS OR DATA-GATHERING ACTIVITIES; REGULATIONS

Not later than 240 days after October 20, 1994, the Secretary shall adopt appropriate regulations or procedures, or identify existing regulations or procedures, which protect the rights of privacy of students and their families in connection with any surveys or data-gathering activities conducted, assisted, or authorized by the Secretary or an administrative head of an education agency. Regulations established under this subsection shall include

provisions controlling the use, dissemination, and protection of such data. No survey or data-gathering activities shall be conducted by the Secretary, or an administrative head of an education agency under an applicable program, unless such activities are authorized by law.

(d) STUDENTS' RATHER THAN PARENTS' PERMISSION OR CONSENT

For the purposes of this section, whenever a student has attained eighteen years of age, or is attending an institution of postsecondary education, the permission or consent required of and the rights accorded to the parents of the student shall thereafter only be required of and accorded to the student.

(e) INFORMING PARENTS OR STUDENTS OF RIGHTS UNDER THIS SECTION

No funds shall be made available under any applicable program to any educational agency or institution unless such agency or institution effectively informs the parents of students, or the students, if they are eighteen years of age or older, or are attending an institution of postsecondary education, of the rights accorded them by this section.

(f) ENFORCEMENT; TERMINATION OF ASSISTANCE

The Secretary shall take appropriate actions to enforce this section and to deal with violations of this section, in accordance with this chapter, except that action to terminate assistance may be taken only if the Secretary finds there has been a failure to comply with this section, and he has determined that compliance cannot be secured by voluntary means.

(g) OFFICE AND REVIEW BOARD; CREATION; FUNCTIONS

The Secretary shall establish or designate an office and review board within the Department for the purpose of investigating, processing, reviewing, and adjudicating violations of this section and complaints which may be filed concerning alleged violations of this section. Except for the conduct of hearings, none of the functions of the Secretary under this section shall be carried out in any of the regional offices of such Department.

(h) DISCIPLINARY RECORDS; DISCLOSURE Nothing in this section shall prohibit an educational agency or institution from—

- (1) including appropriate information in the education record of any student concerning disciplinary action taken against such student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community; or
- (2) disclosing such information to teachers and school officials, including teachers and school officials in other schools, who have legitimate educational interests in the behavior of the student.

(i) DRUG AND ALCOHOL VIOLATION DISCLOSURES

(1) **IN GENERAL** Nothing in this Act or the Higher Education Act of 1965 [20 U.S.C. 1001 et seq.] shall be construed to prohibit an institution of higher education from disclosing, to a parent or legal guardian of a student, information regarding any violation of any Federal, State, or local law, or of any rule or policy of the institution, governing the use or possession of alcohol or a controlled substance, regardless of whether that information is contained in the student's education records, if—

- (A) the student is under the age of 21; and
- (B) the institution determines that the student has committed a disciplinary violation with respect to such use or possession.

(2) **STATE LAW REGARDING DISCLOSURE**

Nothing in paragraph (1) shall be construed to supersede any provision of State law that prohibits an institution of higher education from making the disclosure described in subsection (a).

(j) INVESTIGATION AND PROSECUTION OF TERRORISM

(1) **IN GENERAL** Notwithstanding subsections (a) through (i) or any provision of State law, the Attorney General (or any Federal officer or employee, in a position not lower than an Assistant Attorney General, designated by the Attorney General) may submit a written application to a court of competent jurisdiction for an ex parte order requiring an educational agency or institution to permit the Attorney General (or his designee) to—

- (A) collect education records in the possession of the educational agency or institution that are relevant to an authorized investigation or prosecution of an offense listed in section 2332b(g)(5)(B) of title 18, or an act of domestic or international terrorism as defined in section 2331 of that title; and
- (B) for official purposes related to the investigation or prosecution of an offense described in paragraph (1)(A), retain, disseminate, and use (including as evidence at trial or in other administrative or judicial proceedings) such records, consistent with such guidelines as the Attorney General, after consultation with the Secretary, shall issue to protect confidentiality.

(2) **APPLICATION AND APPROVAL**

(A) **In general.—**

An application under paragraph (1) shall certify that there are specific and articulable facts giving reason to believe that the education records are likely to contain information described in paragraph (1)(A).

- (B) The court shall issue an order described in paragraph (1) if the court finds that the application for the order includes the certification described in subparagraph (A).

(3) **PROTECTION OF EDUCATIONAL AGENCY OR INSTITUTION**

An educational agency or institution that, in good faith, produces education records in accordance with an order issued under this subsection shall not be liable to any person for that production.

(4) **RECORD-KEEPING**

Subsection (b)(4) does not apply to education records subject to a court order under this subsection.

(Pub. L. 90–247, title IV, § 444, formerly § 438, as added Pub. L. 93–380, title V, § 513(a), Aug. 21, 1974, 88 Stat. 571; amended Pub. L. 93–568, § 2(a), Dec. 31, 1974, 88 Stat. 1858; Pub. L. 96–46, § 4(c), Aug. 6, 1979, 93 Stat. 342; Pub. L. 101–542, title II, § 203, Nov. 8, 1990, 104 Stat. 2385; Pub. L. 102–325, title XV, § 1555(a), July 23, 1992, 106 Stat. 840; renumbered § 444 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 249, 261(h), Oct. 20, 1994, 108 Stat. 3913, 3924, 3928; Pub. L. 105–244, title IX, §§ 951, 952, Oct. 7, 1998, 112 Stat. 1835, 1836; Pub. L. 106–386, div. B, title VI, § 1601(d), Oct. 28, 2000, 114 Stat. 1538; Pub. L. 107–56, title V, § 507, Oct. 26, 2001, 115 Stat. 367; Pub. L. 107–110, title X, § 1062(3), Jan. 8, 2002, 115 Stat. 2088; Pub. L. 111–296, title I, § 103(d), Dec. 13, 2010, 124 Stat. 3192; Pub. L. 112–278, § 2, Jan. 14, 2013, 126 Stat. 2480.)

[1] So in original. The period probably should be a semicolon.

[2] See References in Text note below.

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