

## CHAPTER 163

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**EDUCATION - PUBLIC SCHOOLS**


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**HOUSE BILL 13-1220**

BY REPRESENTATIVE(S) Salazar, Buckner, Ginal, Hamner, Hulinghorst, Labuda, McLachlan, Melton, Moreno, Peniston, Pettersen, Primavera, Rosenthal, Schafer, Williams, Young;  
also SENATOR(S) Heath, Carroll, Giron, Guzman, Hodge, Hudak, Johnston, Jones, Kefalas, Newell, Nicholson, Todd, Morse.

**AN ACT****CONCERNING THE CONFIDENTIALITY OF AN INDIVIDUAL EDUCATOR'S PERFORMANCE DATA.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, **amend** 22-9-109 as follows:

**22-9-109. Exemption from public inspection.** (1) Notwithstanding the provisions of section 24-72-204 (3), C.R.S., the evaluation report and all public records as defined in section 24-72-202 (6), C.R.S., used in preparing the evaluation report shall be confidential and shall be available only to the licensed person being evaluated, to the duly elected and appointed public officials who supervise his OR HER work, and to a hearing officer conducting a hearing pursuant to the provisions of section 22-63-302 or the court of appeals reviewing a decision of the board of education pursuant to the provisions of section 22-63-302; except that:

(a) The evaluation report of the chief executive officer of any school district, as it relates to the performance of the chief executive officer in fulfilling the adopted school district objectives, fiscal management of the district, district planning responsibilities, and supervision and evaluation of district personnel, ~~shall~~ **MUST** be open for inspection by any person at reasonable times; AND

(b) EVALUATION REPORTS AND ALL PUBLIC RECORDS AS DEFINED IN SECTION 24-72-202 (6), C.R.S., USED IN PREPARING THE EVALUATION REPORTS ARE AVAILABLE TO INDIVIDUALS RESPONSIBLE FOR REVIEWING AN APPEAL MADE BY A NONPROBATIONARY TEACHER PURSUANT TO SECTION 22-9-106 (4.5) (b).

(2) NOTHING IN THIS SECTION SHALL PREVENT A SCHOOL DISTRICT OR A BOARD OF COOPERATIVE SERVICES FROM COLLECTING INFORMATION CONCERNING AN

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

INDIVIDUAL EDUCATOR'S PERFORMANCE EVALUATION RATINGS AND STUDENT ASSESSMENT RESULTS LINKED TO THE INDIVIDUAL EDUCATOR. A SCHOOL DISTRICT OR BOARD OF COOPERATIVE SERVICES MAY USE THE INFORMATION COLLECTED TO FULFILL ITS DUTIES AS REQUIRED BY LAW, INCLUDING REPORTING THIS INFORMATION IN THE AGGREGATE AT THE STATE, DISTRICT, OR SCHOOL LEVEL. IN SUCH INSTANCES, THE IDENTITY OF INDIVIDUAL EDUCATORS OR STUDENTS, INCLUDING BUT NOT LIMITED TO STUDENT ASSESSMENTS RESULTS LINKED TO THE INDIVIDUAL EDUCATOR, MUST OTHERWISE REMAIN CONFIDENTIAL AND MUST NOT BE PUBLISHED OR PUBLICLY DISCLOSED IN ANY WAY THAT WOULD IDENTIFY AN INDIVIDUAL EDUCATOR.

(3) NOTHING IN THIS SECTION SHALL PREVENT THE USE OF DATA COLLECTED BY THE DEPARTMENT FOR BONA FIDE RESEARCH, WHEN THE DATA IS OBTAINED PURSUANT TO THE DEPARTMENT'S PROTOCOLS FOR RELEASE OF DATA FOR RESEARCH PURPOSES AND IS USED IN A MANNER THAT PROTECTS THE IDENTITY OF INDIVIDUAL EDUCATORS AND ADHERES TO THE APPLICABLE PROVISIONS OF THE FEDERAL "FAMILY EDUCATION RIGHTS AND PRIVACY ACT OF 1974", 20 U.S.C. SEC. 1232 g.

**SECTION 2. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 3, 2013