

P.L.2012, CHAPTER 75, *approved December 3, 2012*
Assembly, No. 2879

1 AN ACT prohibiting the requirement to disclose personal
2 information for certain electronic communications devices by
3 institutions of higher education.

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5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

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8 1. For purposes of this act:

9 “Applicant” means an applicant for admission into a public or
10 private institution of higher education.

11 “Electronic communications device” means any device that uses
12 electronic signals to create, transmit, and receive information,
13 including a computer, telephone, personal digital assistant, or other
14 similar device.

15 “Public or private institution of higher education” means any
16 public or private institution of higher education or any employee,
17 agent, representative, or designee of the institution.

18 “Social networking website” means an Internet-based service
19 that allows individuals to construct a public or semi-public profile
20 within a bounded system created by the service, create a list of
21 other users with whom they share a connection within the system,
22 and view and navigate their list of connections and those made by
23 others within the system.

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25 2. No public or private institution of higher education in this
26 State shall:

27 a. Require a student or applicant to provide or disclose any
28 user name or password, or in any way provide access to, a personal
29 account or service through an electronic communications device.

30 b. In any way inquire as to whether a student or applicant has
31 an account or profile on a social networking website.

32 c. Prohibit a student or applicant from participating in
33 activities sanctioned by the institution of higher education, or in any
34 other way discriminate or retaliate against a student or applicant, as
35 a result of the student or applicant refusing to provide or disclose
36 any user name, password, or other means for accessing a personal
37 account or service through an electronic communications device as
38 provided in subsection a. of this section.

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40 3. No public or private institution of higher education in this
41 State shall require a student or applicant to waive or limit any
42 protection granted under this act. An agreement to waive any right

1 or protection under this act is against the public policy of this State
2 and is void and unenforceable.

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4 4. Upon violation of any provision of this act, an aggrieved
5 person may, in addition to any other available remedy, institute a
6 civil action in a court of competent jurisdiction, within one year
7 from the date of the alleged violation. In response to the action, the
8 court may, as it deems appropriate, order or award any one or more
9 of the following:

10 a. With respect to an applicant:

11 (1) injunctive relief;

12 (2) compensatory and consequential damages incurred by the
13 applicant as a result of the violation, taking into consideration any
14 failure to admit the applicant in connection with the violation; and

15 (3) reasonable attorneys' fees and court costs.

16 b. With respect to a current or former student:

17 (1) injunctive relief as it deems appropriate;

18 (2) compensatory and consequential damages incurred by the
19 student or former student as a result of the violation; and

20 (3) reasonable attorneys' fees and court costs.

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22 5. This act shall take effect immediately.

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STATEMENT

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27 This bill prohibits a public or private institution of higher
28 education in this State from requiring a student or applicant to
29 provide or disclose any user name or password, or in any way
30 provide access to, a personal account or service through an
31 electronic communications device. The bill also prohibits a public
32 or private institution of higher education from prohibiting a student
33 or applicant from participating in activities sanctioned by the
34 institution of higher education, or in any other way discriminating
35 or retaliating against a student or applicant, as a result of the student
36 or applicant refusing to provide or disclose any user name,
37 password, or other means for accessing a personal account or
38 service through an electronic communications device.

39 The bill prohibits a public or private institution of higher
40 education from requiring a student or applicant to waive or limit
41 any protection granted under the bill. Also, any current or former
42 student or applicant aggrieved under the provisions of the bill may
43 bring action in a court of competent jurisdiction for appropriate
44 injunctive relief and damages, including reasonable attorneys' fees
45 and court costs.

46 Finally, for purposes of the bill: "applicant" means an applicant
47 for admission into a public or private institution of higher
48 education; "electronic communications device" means any device

1 that uses electronic signals to create, transmit, and receive
2 information, including a computer, telephone, personal digital
3 assistant, or other similar device; “public or private institution of
4 higher education” means any public or private institution of higher
5 education or any employee, agent, representative, or designee of the
6 institution; and “social networking website” means an Internet-
7 based service that allows individuals to construct a public or semi-
8 public profile within a bounded system created by the service,
9 create a list of other users with whom they share a connection
10 within the system, and view and navigate their list of connections
11 and those made by others within the system.

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16 Prohibits requirement to disclose user name, password, or other
17 means for accessing account or service through electronic
18 communications devices by institutions of higher education.