



General Assembly

January Session, 2015

Raised Bill No. 7017

LCO No. 5179



Referred to Committee on EDUCATION

Introduced by:
(ED)

AN ACT CONCERNING STUDENT DATA PRIVACY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2015, and applicable to any*
2 *agreement entered into on or after said date*) (a) For the purposes of this
3 section:

4 (1) "Contractor" means an individual, business or other entity that
5 provides educational software or services for the electronic storage,
6 management and retrieval of student records and receives such
7 student records pursuant to a written agreement with a local or
8 regional board of education;

9 (2) "Deidentified student information" means any information that
10 cannot be used to identify an individual student;

11 (3) "Student generated content" includes materials created by a
12 student including, but not limited to, essays, research papers,
13 portfolios, creative writing, music or other audio files or photographs,
14 except that it does not include student responses to a standardized

15 assessment; and

16 (4) "Student record" includes any information directly related to a
17 student that is maintained by a local or regional board of education
18 and any information acquired from a student through the use of
19 educational software assigned to the student by a teacher or employee
20 of a local or regional board of education, except that it does not include
21 deidentified student information used by the contractor to improve
22 educational products for adaptive learning purposes and for
23 customizing student learning, to demonstrate the effectiveness of
24 contractor's products in the marketing of those products and to
25 develop and improve the contractors' products and services.

26 (b) Every agreement that a local or regional board of education
27 enters into with a contractor shall include, but is not limited to, the
28 following:

29 (1) A statement that student records continue to be the property of
30 and under the control of the local or regional board of education;

31 (2) A description of the means by which a student may retain
32 possession and control of student generated content and, if applicable,
33 the means by which a student may transfer such student generated
34 content to an electronic mail account;

35 (3) A statement that the contractor shall not use student records for
36 any purposes other than those authorized pursuant to the contract;

37 (4) A description of the procedures by which a parent or legal
38 guardian of a student who is younger than eighteen years of age and a
39 student who is eighteen years of age or older may review personally
40 identifiable information in the student records and correct erroneous
41 information;

42 (5) A description of the actions the contractor will take to ensure the
43 security and confidentiality of student records;

44 (6) A description of the procedures for notifying a parent or legal
45 guardian of a student who is younger than eighteen years of age and a
46 student who is eighteen years of age or older in an instance where an
47 unauthorized person or entity accesses student records in any manner;

48 (7) A statement that student records shall not be retained or
49 available to the contractor upon completion of the contracted services
50 unless a student chooses to establish or maintain an electronic account
51 with the contract for the purpose of storing student generated content;
52 and

53 (8) A statement that the contractor and the local or regional board of
54 education shall ensure compliance with the Family Educational Rights
55 and Privacy Act of 1974, 20 USC 1232g, (FERPA).

56 (c) A contractor shall not use (1) student records for any purposes
57 other than those authorized pursuant to the agreement, and (2)
58 personally identifiable information in student records to engage in
59 targeted advertising.

60 (d) Any agreement which conflicts with the provisions of this
61 section shall be void.

62 Sec. 2. (NEW) (*Effective October 1, 2015*) (a) For the purposes of this
63 section:

64 (1) "Operator" means an operator of an Internet web site, online
65 service, online application or mobile application that is designed, used
66 and marketed for elementary and secondary school purposes;

67 (2) "Elementary and secondary school purposes" means activities
68 that customarily occur at the direction of an elementary or secondary
69 teacher or a local or regional board of education, including, but not
70 limited to, instruction in the classroom or at home, administrative
71 activities and collaboration between students, school personnel or
72 parents;

73 (3) "Covered information" means personally identifiable
74 information, in any media or format, that (A) is created or provided by
75 a student or a parent or legal guardian of a student who is younger
76 than eighteen years of age to an operator in the course of the student,
77 parent or legal guardian using the operator's site, service or
78 application for elementary and secondary school purposes, (B) is
79 created or provided by an employee or agent of a local or regional
80 board of education to an operator, or (C) is gathered by an operator
81 through the operation of the operator's Internet web site, service or
82 application and identifies a student, including, but not limited to,
83 information in the student's records or electronic mail account, first or
84 last name, home address, telephone number, electronic mail address,
85 discipline records, test results, grades, evaluations, criminal records,
86 medical records, health records, Social Security number, biometric
87 information, disabilities, socioeconomic information, food purchases,
88 political affiliations, religious affiliations, text messages, documents,
89 student identifiers, search activity, photos or voice recordings; and

90 (4) "Deidentified student covered information" means any
91 information that cannot be used to identify an individual student.

92 (b) An operator shall not:

93 (1) Engage in targeted advertising on the operator's Internet web
94 site, service or application, or target advertising on any other site,
95 service or application when the targeting of the advertising is based
96 upon any information, including covered information, that the
97 operator acquired because of the use of the operator's Internet web
98 site, service or application;

99 (2) Use information created or gathered by the operator's site,
100 service or application to create a profile about a minor student except
101 in furtherance of elementary and secondary school purposes;

102 (3) Sell a minor student's information, including covered
103 information, except if selling is part of the purchase, merger or

104 acquisition of an operator by another operator, provided the operator
105 and successor operator continue to be subject to the provisions of this
106 section regarding covered information; and

107 (4) Disclose covered information, unless the disclosure is made: (A)
108 In furtherance of the elementary and secondary school purposes of the
109 site, service or application, provided the recipient of the covered
110 information uses such covered information to improve the operability
111 and functionality of the Internet web site, service or application within
112 the student's classroom or school and complies with subsection (d) of
113 this section; (B) to ensure compliance with federal and state law; (C) in
114 response to judicial process; (D) to protect the safety of users or others
115 or security of the Internet web site, service or application; or (E) to a
116 service provider, provided the operator contractually (i) prohibits the
117 service provider from using any covered information for any purpose
118 other than providing the contracted service to, or on behalf of, the
119 operator, (ii) prohibits the service provider from disclosing any
120 covered information provided by the operator with subsequent third
121 parties, and (iii) requires the service provider protect confidential
122 information from unauthorized access in accordance with current
123 industry standards.

124 (c) No provision in subsection (b) of this section shall be construed
125 to prohibit the use of covered information by the operator to maintain,
126 develop, support or improve the operator's Internet web site, service or
127 application.

128 (d) An operator shall (1) protect confidential information from
129 unauthorized access, whenever and however stored or maintained, in
130 accordance with current industry standards, and (2) delete a student's
131 covered information if the local or regional board of education
132 requests deletion of such covered information that is under the control
133 of such board of education.

134 (e) An operator may (1) use deidentified student covered

135 information to improve the operator's Internet web site, service or
136 application and to demonstrate or market the effectiveness of the
137 operator's Internet web site, service or application, and (2) share
138 aggregated deidentified student covered information for improvement
139 and development of Internet web sites, services or applications for
140 elementary and secondary school purposes.

141 Sec. 3. (NEW) (*Effective October 1, 2015*) Upon determination that
142 there is good cause, a local or regional board of education may disclose
143 directory information, as defined in the regulations implementing the
144 Family Educational Rights and Privacy Act of 1974, 20 USC 1232g,
145 (FERPA), as from time to time amended, at 34 CFR 99.3, to any person
146 requesting such directory information.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2015, and applicable to any agreement entered into on or after said date</i>	New section
Sec. 2	<i>October 1, 2015</i>	New section
Sec. 3	<i>October 1, 2015</i>	New section

Statement of Purpose:

To protect the privacy of student information.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]