

**Proposed Substitute  
Bill No. 7017**

LCO No. 5933

**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 or retrieval of student records and receives such student  
7 records pursuant to a written contract with a local or regional board of  
8 education, the State Board of Education or the Department of  
9 Education;

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

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

17 (4) "Student record" includes any information directly related to a

18 student that is maintained by a local or regional board of education,  
19 the State Board of Education or the Department of Education and any  
20 information acquired from a student through the use of educational  
21 software assigned to the student by a teacher or employee of a local or  
22 regional board of education, the State Board of Education or the  
23 Department of Education, except that it does not include deidentified  
24 student information allowed under the contract to be used by the  
25 contractor to (A) improve educational products for adaptive learning  
26 purposes and for customizing student learning, (B) demonstrate the  
27 effectiveness of contractor's products in the marketing of those  
28 products, and (C) develop and improve the contractors' products and  
29 services.

30 (b) Every contract that a local or regional board of education, the  
31 State Board of Education or the Department of Education enters into  
32 with a contractor shall include, but need not be limited to, the  
33 following:

34 (1) A statement that student records continue to be the property of  
35 and under the control of the local or regional board of education, the  
36 State Board of Education or the Department of Education;

37 (2) A description of the means by which a student, parent or legal  
38 guardian of a student may retain possession and control of student-  
39 generated content and, if applicable, the means by which a student,  
40 parent or legal guardian of a student may transfer such student-  
41 generated content to an electronic mail account;

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

44 (4) A description of the procedures by which a student, parent or  
45 legal guardian of a student may review personally identifiable  
46 information in the student record and correct erroneous information;

47 (5) A description of the actions the contractor shall take to ensure  
48 the security and confidentiality of student records;

49 (6) A description of the procedures for notifying a student, parent or  
50 legal guardian of a student and the local or regional board of  
51 education, the State Board of Education or the Department of  
52 Education as soon as practical, but not later than forty-eight hours after  
53 the contractor becomes aware of or suspects that any student record  
54 under the control of the contractor has been subject to unauthorized  
55 access or suspected unauthorized access;

56 (7) A statement that student records shall not be retained or  
57 available to the contractor upon completion of the contracted services  
58 unless a student parent or legal guardian of a student chooses to  
59 establish or maintain an electronic account with the contractor for the  
60 purpose of storing student generated content; and

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

64 (c) A contractor shall not use (1) student records for any purposes  
65 other than those authorized pursuant to the contract, or (2) personally  
66 identifiable information in student records to engage in advertising.

67 (d) Any contract that conflicts with the provisions of this section  
68 shall be void.

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

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

74 (2) "Elementary and secondary school purposes" means activities  
75 that are directed by or that customarily occur at the direction of an  
76 elementary or secondary teacher or a local or regional board of  
77 education, including, but not limited to, instruction in the classroom or  
78 at home, administrative activities and collaboration among students,  
79 school personnel or parents or legal guardians of students;

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

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

100 (b) An operator shall not:

101 (1) Engage in advertising on the operator's Internet web site, service  
102 or application, or advertising on any other Internet web site, service or  
103 application when such advertising is based upon any covered  
104 information that the operator acquired in the course of a student,  
105 parent or legal guardian using the operator's Internet web site, service  
106 or application;

107 (2) Use covered information created or gathered by the operator's  
108 Internet web site, service or application to create a profile of a student,  
109 except in furtherance of elementary and secondary school purposes;

110 (3) Sell covered information, except if the sale is part of the  
111 purchase, merger or acquisition of an operator by a successor operator,

112 provided the operator and successor operator continue to be subject to  
113 the provisions of this section regarding covered information; and

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

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

136 (d) An operator shall (1) protect covered information from  
137 unauthorized access, whenever and however stored or maintained, in  
138 accordance with current industry standards, and (2) delete a student's  
139 covered information if a student, parent or legal guardian of a student  
140 or the local or regional board of education requests deletion of such  
141 covered information.

142 (e) An operator may (1) use deidentified student covered  
143 information to improve the operator's Internet web site, service or  
144 application and to demonstrate or market the effectiveness of the

145 operator's Internet web site, service or application, and (2) use  
146 aggregated deidentified student covered information for improvement  
147 and development of Internet web sites, services or applications for  
148 elementary and secondary school purposes.

149 Sec. 3. (NEW) (*Effective October 1, 2015*) (a) For the purposes of this  
150 section, "directory information" has the same meaning as provided in  
151 34 CFR 99.3, as amended from time to time.

152 (b) Upon determination by a local or regional board of education  
153 that a request for directory information is related to school purposes,  
154 the local or regional board of education may disclose directory  
155 information to any person requesting such directory information. If the  
156 local or regional board of education determines that a request for  
157 directory information is not related to school purposes, the local or  
158 regional board of education shall not disclose such directory  
159 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