



General Assembly

February Session, 2016

***Raised Bill No. 5469***

LCO No. 2091



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, 2016, and applicable to contracts*  
2 *entered into, amended or renewed on or after said date*) (a) For the purposes  
3 of this 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) "De-identified student information" means any information that  
11 cannot be used to identify an individual student;

12 (3) "Student-generated content" means any 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" means 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 de-identified  
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 customize student learning, (B) demonstrate the  
27 effectiveness of the contractor's products in the marketing of those  
28 products, and (C) develop and improve the contractor's 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 contained in the student record and correct erroneous  
47 information, if any, in such student record;

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

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

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

62 (8) A statement that the contractor and the local or regional board of  
63 education, the State Board of Education or the Department of  
64 Education shall ensure compliance with the Family Educational Rights  
65 and Privacy Act of 1974, 20 USC 1232g;

66 (9) A statement that the laws of the state of Connecticut shall govern  
67 the rights and duties of the contractor and the local or regional board  
68 of education, the State Board of Education or the Department of  
69 Education; and

70 (10) A statement that if any provision of the contract or the  
71 application of the contract is held invalid by a court of competent  
72 jurisdiction, the invalidity does not affect other provisions or  
73 applications of the contract which can be given effect without the  
74 invalid provision or application.

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

79 (d) Any provision of a contract entered into between a contractor  
80 and a local or regional board of education, the State Board of  
81 Education or the Department of Education on or after October 1, 2016,  
82 that conflicts with any provision of this section shall be void.

83 (e) Any contract that does not include a provision required by  
84 subsection (b) of this section shall be void, provided the local or  
85 regional board of education, the State Board of Education or the  
86 Department of Education has given reasonable notice to the contractor  
87 and the contractor has failed within a reasonable time to amend the  
88 contract to include the provision required by subsection (b) of this  
89 section.

90 (f) Not later than five business days after executing a contract  
91 pursuant to this section, a local or regional board of education shall  
92 provide notice to any student and the parent or legal guardian of a  
93 student affected by the contract. The notice shall state that the contract  
94 was executed and provide a brief description of the contract and the  
95 purpose of the contract.

96 Sec. 2. (NEW) (*Effective October 1, 2016*) (a) For the purposes of this  
97 section:

98 (1) "Operator" means any person who (A) operates an Internet web  
99 site, online service or mobile application with actual knowledge that  
100 such Internet web site, online service or mobile application is used for  
101 school purposes and was designed and marketed for school purposes,  
102 and (B) collects, maintains or uses student information;

103 (2) "School purposes" means purposes that customarily take place at  
104 the direction of a teacher or a local or regional board of education, or

105 aid in the administration of school activities, including, but not limited  
106 to, instruction in the classroom, administrative activities and  
107 collaboration among students, school personnel or parents or legal  
108 guardians of students;

109 (3) "Student information" means personally identifiable information  
110 regarding a student that is (A) created or provided by a student or the  
111 parent or legal guardian of a student, to the operator in the course of  
112 the student, parent or legal guardian using the operator's Internet web  
113 site, online service or mobile application for school purposes, (B)  
114 created or provided by an employee or agent of a local or regional  
115 board of education to an operator for school purposes, or (C) gathered  
116 by an operator through the operation of the operator's Internet web  
117 site, online service or mobile application and identifies a student,  
118 including, but not limited to, information in the student's records or  
119 electronic mail account, first or last name, home address, telephone  
120 number, date of birth, electronic mail address, discipline records, test  
121 results, grades, evaluations, criminal records, medical records, health  
122 records, Social Security number, biometric information, disabilities,  
123 socioeconomic information, food purchases, political affiliations,  
124 religious affiliations, text messages, documents, student identifiers,  
125 search activity, photographs or voice recordings;

126 (4) "Student" means a child who is a resident of the state and  
127 enrolled in grades kindergarten to twelve, inclusive, in a public school;

128 (5) "De-identified student information" means any student  
129 information that has been altered to prevent the identification of an  
130 individual student; and

131 (6) "Targeted advertising" means presenting an advertisement to a  
132 student where the selection of the advertisement is based on student  
133 information or inferred from the usage of the operator's Internet web  
134 site, online service or mobile application by such student.

135 (b) An operator shall (1) implement and maintain reasonable

136 security procedures and practices, in accordance with current industry  
137 standards, to protect student information from unauthorized access,  
138 destruction, use, modification or disclosure, and (2) delete any student  
139 information if a student, parent or legal guardian of a student or local  
140 or regional board of education requests deletion of such student  
141 information.

142 (c) An operator shall not knowingly:

143 (1) Engage in targeted advertising on the operator's Internet web  
144 site, online service or mobile application, or on any other Internet web  
145 site, online service or mobile application;

146 (2) Use student information to create a profile of a student for  
147 purposes other than the furtherance of school purposes;

148 (3) Sell student information, unless the sale is part of the purchase,  
149 merger or acquisition of an operator by a successor operator and the  
150 operator and successor operator continue to be subject to the  
151 provisions of this section regarding student information; and

152 (4) Disclose student information, unless the disclosure is made (A)  
153 in furtherance of school purposes of the Internet web site, online  
154 service or mobile application, provided the recipient of the student  
155 information uses such student information to improve the operability  
156 and functionality of the Internet web site, online service or mobile  
157 application and complies with subsection (b) of this section; (B) to  
158 ensure compliance with federal and state law; (C) in response to  
159 judicial process; (D) to protect the safety of users or others, or the  
160 security of the Internet web site, online service or mobile application;  
161 or (E) to an entity hired by the operator to provide services for the  
162 operator's Internet web site, online service or mobile application,  
163 provided the operator contractually (i) prohibits the entity from using  
164 student information for any purpose other than providing the  
165 contracted service to, or on behalf of, the operator, (ii) prohibits the  
166 entity from disclosing student information provided by the operator to

167 subsequent third parties, and (iii) requires the entity to comply with  
168 subsection (b) of this section.

169 (d) An operator may use student information (1) to maintain,  
170 support, evaluate or diagnose the operator's Internet web site, online  
171 service or mobile application, or (2) for adaptive learning purposes or  
172 customized student learning.

173 (e) An operator may use de-identified student information (1) to  
174 develop or improve the operator's Internet web site, online service or  
175 mobile application, or other Internet web sites, online services or  
176 mobile applications owned by the operator, or (2) to demonstrate or  
177 market the effectiveness of the operator's Internet web site, online  
178 service or mobile application.

179 (f) An operator may share aggregated de-identified student  
180 information for the improvement and development of Internet web  
181 sites, online services or mobile applications designed for school  
182 purposes.

183 (g) Nothing in this section shall (1) limit the ability of a law  
184 enforcement agency to obtain student information from an operator as  
185 authorized by law or pursuant to a court order, (2) limit the ability of a  
186 student or the parent or legal guardian of a student to download,  
187 transfer or otherwise save or maintain student information, (3) impose  
188 a duty upon a provider of an interactive computer service, as defined  
189 in 47 USC 230, as amended from time to time, to ensure compliance  
190 with this section by third-party information content providers, as  
191 defined in 47 USC 230, as amended from time to time, (4) impose a  
192 duty upon a seller or provider of online services or mobile applications  
193 to ensure compliance with this section with regard to such online  
194 services or mobile applications, (5) limit an Internet service provider  
195 from providing a student, parent or legal guardian of a student or local  
196 or regional board of education with the ability to connect to the  
197 Internet, (6) prohibit an operator from advertising other Internet web

198 sites, online services or mobile applications that are used for school  
 199 purposes to parents or legal guardians of students provided such  
 200 advertising does not result from use of student information, or (7)  
 201 apply to Internet web sites, online services or mobile applications that  
 202 are designed and marketed for use by individuals generally, even if  
 203 the account credentials created for an operator's Internet web site,  
 204 online service or mobile application may be used to access Internet  
 205 web sites, online services or mobile applications that are designed and  
 206 marketed for use by individuals generally.

207       Sec. 3. (NEW) (*Effective July 1, 2016*) (a) For the purposes of this  
 208 section, "directory information" has the same meaning as provided in  
 209 34 CFR 99.3, as amended from time to time.

210       (b) Upon determination by a local or regional board of education  
 211 that a request for directory information is related to school purposes,  
 212 the local or regional board of education may disclose directory  
 213 information to any person requesting such directory information. If the  
 214 local or regional board of education determines that a request for  
 215 directory information is not related to school purposes, the local or  
 216 regional board of education shall not disclose such directory  
 217 information.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2016, and applicable to contracts entered into, amended or renewed on or after said date</i>	New section
Sec. 2	<i>October 1, 2016</i>	New section
Sec. 3	<i>July 1, 2016</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.]*