

**Proposed Substitute  
Bill No. 5469**

LCO No. 3427

**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 and student-generated content  
35 are not the property of and under the control of a contractor;

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

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

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

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;

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

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

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

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

78 (d) Any provision of a contract entered into between a contractor  
79 and a local or regional board of education, the State Board of

80 Education or the Department of Education on or after October 1, 2016,  
81 that conflicts with any provision of this section shall be void.

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

89 (f) Not later than five business days after executing a contract  
90 pursuant to this section, a local or regional board of education shall  
91 provide notice to any student and the parent or legal guardian of a  
92 student affected by the contract. The notice shall (1) state that the  
93 contract has been executed and the date that such contract was  
94 executed, (2) provide a brief description of the contract and the  
95 purpose of the contract, (3) state what student-generated content or  
96 student records may be collected as a result of the contract, and (4)  
97 state that the parent or legal guardian of a student affected by the  
98 contract may choose to not have such student participate in the  
99 execution of the contract.

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

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

107 (2) "School purposes" means purposes that customarily take place at  
108 the direction of a teacher or a local or regional board of education, or  
109 aid in the administration of school activities, including, but not limited  
110 to, instruction in the classroom, administrative activities and  
111 collaboration among students, school personnel or parents or legal

112 guardians of students;

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

131 (4) "Student" means a child who is a resident of the state and  
132 enrolled in (A) a preschool program participating in the state-wide  
133 public school information system, pursuant to section 10-10a of the  
134 general statutes, or (B) grades kindergarten to twelve, inclusive, in a  
135 public school;

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

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

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

144 security procedures and practices, in accordance with current industry  
145 standards, to protect student information from unauthorized access,  
146 destruction, use, modification or disclosure, and (2) delete any student  
147 information if a student, parent or legal guardian of a student or local  
148 or regional board of education requests deletion of such student  
149 information.

150 (c) An operator shall not knowingly:

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

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

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

160 (4) Disclose student information, unless the disclosure is made (A)  
161 in furtherance of school purposes of the Internet web site, online  
162 service or mobile application, provided the recipient of the student  
163 information uses such student information to improve the operability  
164 and functionality of the Internet web site, online service or mobile  
165 application and complies with subsection (b) of this section; (B) to  
166 ensure compliance with federal and state law; (C) in response to  
167 judicial process; (D) to protect the safety of users or others, or the  
168 security of the Internet web site, online service or mobile application;  
169 or (E) to an entity hired by the operator to provide services for the  
170 operator's Internet web site, online service or mobile application,  
171 provided the operator contractually (i) prohibits the entity from using  
172 student information for any purpose other than providing the  
173 contracted service to, or on behalf of, the operator, (ii) prohibits the  
174 entity from disclosing student information provided by the operator to  
175 subsequent third parties, and (iii) requires the entity to comply with

176 subsection (b) of this section.

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

181 (e) An operator may use de-identified student information (1) to  
182 develop or improve the operator's Internet web site, online service or  
183 mobile application, or other Internet web sites, online services or  
184 mobile applications owned by the operator, or (2) to demonstrate or  
185 market the effectiveness of the operator's Internet web site, online  
186 service or mobile application.

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

191 (g) Nothing in this section shall (1) limit the ability of a law  
192 enforcement agency to obtain student information from an operator as  
193 authorized by law or pursuant to a court order, (2) limit the ability of a  
194 student or the parent or legal guardian of a student to download,  
195 transfer or otherwise save or maintain student information, (3) impose  
196 a duty upon a provider of an interactive computer service, as defined  
197 in 47 USC 230, as amended from time to time, to ensure compliance  
198 with this section by third-party information content providers, as  
199 defined in 47 USC 230, as amended from time to time, (4) impose a  
200 duty upon a seller or provider of online services or mobile applications  
201 to ensure compliance with this section with regard to such online  
202 services or mobile applications, (5) limit an Internet service provider  
203 from providing a student, parent or legal guardian of a student or local  
204 or regional board of education with the ability to connect to the  
205 Internet, (6) prohibit an operator from advertising other Internet web  
206 sites, online services or mobile applications that are used for school  
207 purposes to parents or legal guardians of students provided such  
208 advertising does not result from use of student information, or (7)

209 apply to Internet web sites, online services or mobile applications that  
210 are designed and marketed for use by individuals generally, even if  
211 the account credentials created for an operator's Internet web site,  
212 online service or mobile application may be used to access Internet  
213 web sites, online services or mobile applications that are designed and  
214 marketed for use by individuals generally.

215 Sec. 3. (NEW) (*Effective July 1, 2016*) (a) For the purposes of this  
216 section, "directory information" has the same meaning as provided in  
217 34 CFR 99.3, as amended from time to time.

218 (b) Upon determination by a local or regional board of education  
219 that a request for directory information is related to school purposes,  
220 the local or regional board of education may disclose directory  
221 information to any person requesting such directory information. If the  
222 local or regional board of education determines that a request for  
223 directory information is not related to school purposes, the local or  
224 regional board of education shall not disclose such directory  
225 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