



General Assembly

**Amendment**

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LCO No. 5811



Offered by:

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To: Subst. House Bill No. 5469

File No. 527

Cal. No. 329

**"AN ACT CONCERNING STUDENT DATA PRIVACY."**

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1 Strike everything after the enacting clause and substitute the  
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective October 1, 2016*) As used in this section  
4 and sections 2 to 4, inclusive:

5 (1) "Contractor" means an operator or consultant that is in  
6 possession of or has access to student information, student records or  
7 student-generated content as a result of a contract with a local or  
8 regional board of education;

9 (2) "Operator" means any person who (A) operates an Internet web  
10 site, online service or mobile application with actual knowledge that  
11 such Internet web site, online service or mobile application is used for  
12 school purposes and was designed and marketed for school purposes,

13 to the extent it is engaged in the operation of such Internet web site,  
14 online service or mobile application, and (B) collects, maintains or uses  
15 student information;

16 (3) "Consultant" means a professional who provides  
17 noninstructional services, including, but not limited to, administrative,  
18 planning, analysis, statistical or research services, to a local or regional  
19 board of education pursuant to a contract with such local or regional  
20 board of education;

21 (4) "Student information" means personally identifiable information  
22 or material of a student in any media or format that is not publicly  
23 available and is any of the following: (A) Created or provided by a  
24 student or the parent or legal guardian of a student, to the operator in  
25 the course of the student, parent or legal guardian using the operator's  
26 Internet web site, online service or mobile application for school  
27 purposes, (B) created or provided by an employee or agent of a local or  
28 regional board of education to an operator for school purposes, or (C)  
29 gathered by an operator through the operation of the operator's  
30 Internet web site, online service or mobile application and identifies a  
31 student, including, but not limited to, information in the student's  
32 records or electronic mail account, first or last name, home address,  
33 telephone number, date of birth, electronic mail address, discipline  
34 records, test results, grades, evaluations, criminal records, medical  
35 records, health records, Social Security number, biometric information,  
36 disabilities, socioeconomic information, food purchases, political  
37 affiliations, religious affiliations, text messages, documents, student  
38 identifiers, search activity, photographs, voice recordings, survey  
39 responses or behavioral assessments;

40 (5) "Student record" means any information directly related to a  
41 student that is maintained by a local or regional board of education,  
42 the State Board of Education or the Department of Education or any  
43 information acquired from a student through the use of educational  
44 software assigned to the student by a teacher or employee of a local or  
45 regional board of education, except "student record" does not include

46 de-identified student information allowed under the contract to be  
47 used by the contractor to (A) improve educational products for  
48 adaptive learning purposes and customize student learning, (B)  
49 demonstrate the effectiveness of the contractor's products in the  
50 marketing of such products, and (C) develop and improve the  
51 contractor's products and services;

52 (6) "Student-generated content" means any student materials  
53 created by a student including, but not limited to, essays, research  
54 papers, portfolios, creative writing, music or other audio files or  
55 photographs, except "student-generated content" does not include  
56 student responses to a standardized assessment;

57 (7) "Directory information" has the same meaning as provided in 34  
58 CFR 99.3, as amended from time to time;

59 (8) "School purposes" means purposes that customarily take place at  
60 the direction of a teacher or a local or regional board of education, or  
61 aid in the administration of school activities, including, but not limited  
62 to, instruction in the classroom, administrative activities and  
63 collaboration among students, school personnel or parents or legal  
64 guardians of students;

65 (9) "Student" means a person who is a resident of the state and (A)  
66 enrolled in a preschool program participating in the state-wide public  
67 school information system, pursuant to section 10-10a of the general  
68 statutes, (B) enrolled in grades kindergarten to twelve, inclusive, in a  
69 public school, (C) receiving special education and related services  
70 under an individualized education program, or (D) otherwise the  
71 responsibility of a local or regional board of education;

72 (10) "Targeted advertising" means presenting an advertisement to a  
73 student where the selection of the advertisement is based on student  
74 information, student records or student-generated content or inferred  
75 over time from the usage of the operator's Internet web site, online  
76 service or mobile application by such student or the retention of such  
77 student's online activities or requests over time for the purpose of

78 targeting subsequent advertisements. "Targeted advertising" does not  
79 include any advertising to a student on an Internet web site that such  
80 student is accessing at the time or in response to a student's response  
81 or request for information or feedback;

82 (11) "De-identified student information" means any student  
83 information that has been altered to prevent the identification of an  
84 individual student; and

85 (12) "Persistent unique identifier" means a unique piece of  
86 information that can be used to recognize a user over time and across  
87 different Internet web sites, online services or mobile applications and  
88 is acquired as a result of the use of a student's use of an operator's  
89 Internet web site, online service or mobile application.

90 Sec. 2. (NEW) (*Effective October 1, 2016, and applicable to contracts*  
91 *entered into, amended or renewed on or after said date*): (a) On and after  
92 October 1, 2016, a local or regional board of education shall enter into a  
93 written contract with a contractor any time such local or regional  
94 board of education shares or provides access to student information,  
95 student records or student-generated content with such contractor.  
96 Each such contract shall include, but need not be limited to, the  
97 following:

98 (1) A statement that student information, student records and  
99 student-generated content are not the property of or under the control  
100 of a contractor;

101 (2) A description of the means by which the local or regional board  
102 of education may request the deletion of student information, student  
103 records or student-generated content in the possession of the  
104 contractor;

105 (3) A statement that the contractor shall not use student  
106 information, student records and student-generated content for any  
107 purposes other than those authorized pursuant to the contract;

108 (4) A description of the procedures by which a student, parent or  
109 legal guardian of a student may review personally identifiable  
110 information contained in student information, student records or  
111 student-generated content and correct erroneous information, if any, in  
112 such student record;

113 (5) A statement that the contractor shall take actions designed to  
114 ensure the security and confidentiality of student information, student  
115 records and student-generated content;

116 (6) A description of the procedures that a contractor will follow to  
117 notify the local or regional board of education, in accordance with the  
118 provisions of section 4 of this act, when there has been an  
119 unauthorized release, disclosure or acquisition of student information,  
120 student records or student-generated content;

121 (7) A statement that student information, student records or  
122 student-generated content shall not be retained or available to the  
123 contractor upon completion of the contracted services unless a student,  
124 parent or legal guardian of a student chooses to establish or maintain  
125 an electronic account with the contractor for the purpose of storing  
126 student-generated content;

127 (8) A statement that the contractor and the local or regional board of  
128 education shall ensure compliance with the Family Educational Rights  
129 and Privacy Act of 1974, 20 USC 1232g, as amended from time to time;

130 (9) A statement that the laws of the state of Connecticut shall govern  
131 the rights and duties of the contractor and the local or regional board  
132 of education; and

133 (10) A statement that if any provision of the contract or the  
134 application of the contract is held invalid by a court of competent  
135 jurisdiction, the invalidity does not affect other provisions or  
136 applications of the contract which can be given effect without the  
137 invalid provision or application.

138 (b) All student-generated content shall be the property of the  
139 student or the parent or legal guardian of the student.

140 (c) A contractor shall implement and maintain security procedures  
141 and practices designed to protect student information, student records  
142 and student-generated content from unauthorized access, destruction,  
143 use, modification or disclosure that (1) use technologies and  
144 methodologies that are consistent with the guidance issued pursuant  
145 to section 13402(h)(2) of Public Law 111-5, as amended from time to  
146 time, (2) maintain technical safeguards as it relates to the possession of  
147 student records in a manner consistent with the provisions of 45 CFR  
148 164.312, as amended from time to time, and (3) otherwise meet or  
149 exceed industry standards.

150 (d) A contractor shall not use (1) student information, student  
151 records or student-generated content for any purposes other than  
152 those authorized pursuant to the contract, or (2) personally identifiable  
153 information contained in student information, student records or  
154 student-generated content to engage in targeted advertising.

155 (e) Any provision of a contract entered into between a contractor  
156 and a local or regional board of education on or after October 1, 2016,  
157 that conflicts with any provision of this section shall be void.

158 (f) Any contract entered into on and after October 1, 2016, that does  
159 not include a provision required by subsection (a) of this section shall  
160 be void, provided the local or regional board of education has given  
161 reasonable notice to the contractor and the contractor has failed within  
162 a reasonable time to amend the contract to include the provision  
163 required by subsection (a) of this section.

164 (g) Not later than five business days after executing a contract  
165 pursuant to this section, a local or regional board of education shall  
166 provide electronic notice to any student and the parent or legal  
167 guardian of a student affected by the contract. The notice shall (1) state  
168 that the contract has been executed and the date that such contract was  
169 executed, (2) provide a brief description of the contract and the

170 purpose of the contract, and (3) state what student information,  
171 student records or student-generated content may be collected as a  
172 result of the contract. The local or regional board of education shall  
173 post such notice and the contract on the board's Internet web site.

174 Sec. 3. (NEW) (*Effective October 1, 2016*) (a) An operator shall (1)  
175 implement and maintain security procedures and practices that meet  
176 or exceed industry standards and that are designed to protect student  
177 information, student records and student-generated content from  
178 unauthorized access, destruction, use, modification or disclosure, and  
179 (2) delete any student information, student records or student-  
180 generated content within a reasonable amount of time if a student,  
181 parent or legal guardian of a student or local or regional board of  
182 education who has the right to control such student information  
183 requests the deletion of such student information, student records or  
184 student-generated content.

185 (b) An operator shall not knowingly:

186 (1) Engage in (A) targeted advertising on the operator's Internet web  
187 site, online service or mobile application, or (B) targeted advertising on  
188 any other Internet web site, online service or mobile application if such  
189 advertising is based on any student information, student records,  
190 student-generated content or persistent unique identifiers that the  
191 operator has acquired because of the use of the operator's Internet web  
192 site, online service or mobile application for school purposes;

193 (2) Collect, store and use student information, student records,  
194 student-generated content or persistent unique identifiers for purposes  
195 other than the furtherance of school purposes;

196 (3) Sell, rent or trade student information, student records or  
197 student-generated content unless the sale is part of the purchase,  
198 merger or acquisition of an operator by a successor operator and the  
199 operator and successor operator continue to be subject to the  
200 provisions of this section regarding student information; or

201 (4) Disclose student information, student records or student-  
202 generated content unless the disclosure is made (A) in furtherance of  
203 school purposes of the Internet web site, online service or mobile  
204 application, provided the recipient of the student information uses  
205 such student information to improve the operability and functionality  
206 of the Internet web site, online service or mobile application and  
207 complies with subsection (a) of this section; (B) to ensure compliance  
208 with federal or state law or regulations or pursuant to a court order;  
209 (C) in response to a judicial order; (D) to protect the safety or integrity  
210 of users or others, or the security of the Internet web site, online service  
211 or mobile application; (E) to an entity hired by the operator to provide  
212 services for the operator's Internet web site, online service or mobile  
213 application, provided the operator contractually (i) prohibits the entity  
214 from using student information, student records or student-generated  
215 content for any purpose other than providing the contracted service to,  
216 or on behalf of, the operator, (ii) prohibits the entity from disclosing  
217 student information, student records or student-generated content  
218 provided by the operator to subsequent third parties, and (iii) requires  
219 the entity to comply with subsection (a) of this section; or (F) for a  
220 school purpose or other educational or employment purpose requested  
221 by a student or the parent or legal guardian of a student, provided  
222 such student information is not used or disclosed for any other  
223 purpose.

224 (c) An operator may use student information (1) to maintain,  
225 support, improve, evaluate or diagnose the operator's Internet web  
226 site, online service or mobile application, (2) for adaptive learning  
227 purposes or customized student learning, (3) to provide  
228 recommendation engines to recommend content or services relating to  
229 school purposes or other educational or employment purposes,  
230 provided such recommendation is not determined in whole or in part  
231 by payment or other consideration from a third party, or (4) to respond  
232 to a request for information or feedback from a student, provided such  
233 response is not determined in whole or in part by payment or other  
234 consideration from a third party.

235 (d) An operator may use de-identified student information or  
236 aggregated student information (1) to develop or improve the  
237 operator's Internet web site, online service or mobile application, or  
238 other Internet web sites, online services or mobile applications owned  
239 by the operator, or (2) to demonstrate or market the effectiveness of the  
240 operator's Internet web site, online service or mobile application.

241 (e) An operator may share aggregated student information or de-  
242 identified student information for the improvement and development  
243 of Internet web sites, online services or mobile applications designed  
244 for school purposes.

245 (f) Nothing in this section shall be construed to (1) limit the ability of  
246 a law enforcement agency to obtain student information, student  
247 records or student-generated content from an operator as authorized  
248 by law or pursuant to a court order, (2) limit the ability of a student or  
249 the parent or legal guardian of a student to download, export, transfer  
250 or otherwise save or maintain student information, student records or  
251 student-generated content, (3) impose a duty upon a provider of an  
252 interactive computer service, as defined in 47 USC 230, as amended  
253 from time to time, to ensure compliance with this section by third-  
254 party information content providers, as defined in 47 USC 230, as  
255 amended from time to time, (4) impose a duty upon a seller or  
256 provider of an electronic store, gateway, marketplace or other means  
257 of purchasing or downloading software applications to review or  
258 enforce compliance with this section on such software applications, (5)  
259 limit an Internet service provider from providing a student, parent or  
260 legal guardian of a student or local or regional board of education with  
261 the ability to connect to the Internet, (6) prohibit an operator from  
262 advertising other Internet web sites, online services or mobile  
263 applications that are used for school purposes to parents or legal  
264 guardians of students, provided such advertising does not result from  
265 the operator's use of student information, student records or student-  
266 generated content, or (7) apply to Internet web sites, online services or  
267 mobile applications that are designed and marketed for use by  
268 individuals generally, even if the account credentials created for an

269 operator's Internet web site, online service or mobile application may  
270 be used to access Internet web sites, online services or mobile  
271 applications that are designed and marketed for school purposes.

272 Sec. 4. (NEW) (*Effective October 1, 2016*) (a) (1) Upon the discovery of  
273 a breach of security that results in the unauthorized release, disclosure  
274 or acquisition of student information, excluding any directory  
275 information contained in such student information, a contractor shall  
276 notify, without unreasonable delay, but not more than thirty days after  
277 such discovery, the local or regional board of education of such breach  
278 of security. During such thirty-day period, the contractor may (A)  
279 conduct an investigation to determine the nature and scope of such  
280 unauthorized release, disclosure or acquisition, and the identity of the  
281 students whose student information is involved in such unauthorized  
282 release, disclosure or acquisition, or (B) restore the reasonable integrity  
283 of the contractor's data system.

284 (2) Upon the discovery of a breach of security that results in the  
285 unauthorized release, disclosure or acquisition of directory  
286 information, student records or student-generated content, a contractor  
287 shall notify, without unreasonable delay, but not more than sixty days  
288 after such discovery, the local or regional board of education of such  
289 breach of security. During such sixty-day period, the contractor may  
290 (A) conduct an investigation to determine the nature and scope of such  
291 unauthorized release, disclosure or acquisition, and the identity of the  
292 students whose directory information, student records or student-  
293 generated content is involved in such unauthorized release, disclosure  
294 or acquisition, or (B) restore the reasonable integrity of the contractor's  
295 data system.

296 (3) Upon receipt of notice of a breach of security under subdivisions  
297 (1) or (2) of this subsection, a local or regional board of education shall  
298 electronically notify, not later than forty-eight hours after receipt of  
299 such notice, the student and the parents or guardians of the student  
300 whose student information, student records or student-generated  
301 content is involved in such breach of security. The local or regional

302 board of education shall post such notice on the board's Internet web  
303 site.

304 (b) Upon the discovery of a breach of security that results in the  
305 unauthorized release, disclosure or acquisition of student information,  
306 student records or student-generated content, an operator that is in  
307 possession of or maintains student information, student records or  
308 student-generated content as a result of a student's use of such  
309 operator's Internet web site, online service or mobile application, shall  
310 (1) notify, without unreasonable delay, but not more than thirty days  
311 after such discovery, the student or the parents or guardians of such  
312 student of any breach of security that results in the unauthorized  
313 release, disclosure or acquisition of student information, excluding any  
314 directory information contained in such student information, of such  
315 student, and (2) notify, without unreasonable delay, but not more than  
316 sixty days after such discovery, the student or the parents or guardians  
317 of such student of any breach of security that results in the  
318 unauthorized release, disclosure or acquisition of directory  
319 information, student records or student-generated content of such  
320 student. During such thirty-day or sixty-day period, the operator may  
321 (A) conduct an investigation to determine the nature and scope of such  
322 unauthorized release, disclosure or acquisition, and the identity of the  
323 students whose student information, student records or student-  
324 generated content are involved in such unauthorized release,  
325 disclosure or acquisition, or (B) restore the reasonable integrity of the  
326 operator's data system.

327 Sec. 5. (*Effective from passage*) (a) There is established a task force to  
328 study issues relating to student data privacy. Such study shall include,  
329 but not be limited to, an examination of (1) when a parent or guardian  
330 of a student may reasonably or appropriately request the deletion of  
331 student information, student records or student-generated content that  
332 is in the possession of a contractor or operator, (2) means of providing  
333 notice to parents and guardians of students when a student uses an  
334 Internet web site, online service or mobile application of an operator  
335 for instructional purposes in a classroom or as part of an assignment

336 by a teacher, (3) reasonable penalties for violations of the provisions of  
337 sections 2 to 4, inclusive, of this act, such as restricting a contractor or  
338 operator from accessing or collecting student information, student  
339 records or student-generated content, (4) strategies in effect in other  
340 states that ensure that school employees, contractors and operators are  
341 trained in data security handling, compliance and best practices, (5) the  
342 feasibility of developing a school district-wide list of approved Internet  
343 web sites, online services and mobile applications, (6) the use of an  
344 administrative hearing process designed to provide legal recourse to  
345 students and parents and guardians of students aggrieved by any  
346 violation of sections 2 to 4, inclusive, of this act, (7) the feasibility of  
347 creating an inventory of student information, student records and  
348 student-generated content currently collected pursuant to state and  
349 federal law, (8) the feasibility of developing a tool kit for use by local  
350 and regional boards of education to (A) improve student data  
351 contracting practices and compliance, including a state-wide template  
352 for use by districts, (B) increase school employee awareness of student  
353 data security best practices, including model training components, (C)  
354 develop district-wide lists of approved software applications and  
355 Internet web sites, and (D) increase the availability and accessibility of  
356 information on student data privacy for parents and guardians of  
357 students and educators, and (9) any other issue involving student data  
358 security that the task force deems relevant.

359 (b) The task force shall consist of the following members:

360 (1) One appointed by the speaker of the House of Representatives  
361 who is a student data privacy advocate;

362 (2) One appointed by the president pro tempore of the Senate who  
363 is a representative or member of the Connecticut Parent Teacher  
364 Association;

365 (3) One appointed by the majority leader of the House of  
366 Representatives who is a representative or member of the Connecticut  
367 Education Association;

368 (4) One appointed by the majority leader of the Senate who is an  
369 expert in information technology systems;

370 (5) One appointed by the minority leader of the House of  
371 Representatives who is a representative of the Connecticut Association  
372 of School Administrators;

373 (6) One appointed by the minority leader of the Senate who is a  
374 representative of a contractor, pursuant to section 1 of this act;

375 (7) The Attorney General, or the Attorney General's designee;

376 (8) The Commissioner of the State Department of Education or the  
377 Commissioner's designee; and

378 (9) Five persons appointed by the Governor, one of whom shall be a  
379 representative or member of the American Federation of Teachers, one  
380 of whom shall be a representative or member of the Connecticut  
381 Association of Boards of Education, one of whom shall be an expert in  
382 information technology systems, one of whom shall be a representative  
383 or member of the Connecticut Association of Public School  
384 Superintendents, and one of whom shall be an operator, pursuant to  
385 section 1 of this act.

386 (c) All appointments to the task force shall be made not later than  
387 thirty days after the effective date of this section. Any vacancy shall be  
388 filled by the appointing authority.

389 (d) The speaker of the House of Representatives and the president  
390 pro tempore of the Senate shall select the chairpersons of the task force  
391 from among the members of the task force. Such chairpersons shall  
392 schedule the first meeting of the task force, which shall be held not  
393 later than sixty days after the effective date of this section.

394 (e) The administrative staff of the joint standing committee of the  
395 General Assembly having cognizance of matters relating to general  
396 law shall serve as administrative staff of the task force.

397 (f) Not later than January 1, 2017, the task force shall submit a report  
 398 on its findings and recommendations to the joint standing committee  
 399 of the General Assembly having cognizance of matters relating to  
 400 general law and education, in accordance with the provisions of  
 401 section 11-4a of the general statutes. The task force shall terminate on  
 402 the date that it submits such report or January 1, 2017, whichever is  
 403 later."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2016</i>	New section
Sec. 2	<i>October 1, 2016, and applicable to contracts entered into, amended or renewed on or after said date</i>	New section
Sec. 3	<i>October 1, 2016</i>	New section
Sec. 4	<i>October 1, 2016</i>	New section
Sec. 5	<i>from passage</i>	New section