



General Assembly

January Session, 2017

Raised Bill No. 7207

LCO No. 4058



Referred to Committee on EDUCATION

Introduced by:
(ED)

AN ACT MAKING REVISIONS TO THE STUDENT DATA PRIVACY ACT OF 2016.

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

1 Section 1. Section 10-234bb of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective from passage*):

3 (a) On and after [October 1, 2016] July 1, 2018, a local or regional
4 board of education shall enter into a written contract with a contractor
5 any time such local or regional board of education shares or provides
6 access to student information, student records or student-generated
7 content with such contractor. Each such contract shall include, but
8 need not be limited to, the following:

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

12 (2) A description of the means by which the local or regional board
13 of education may request the deletion of student information, student

14 records or student-generated content in the possession of the
15 contractor;

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

19 (4) A description of the procedures by which a student, parent or
20 legal guardian of a student may review personally identifiable
21 information contained in student information, student records or
22 student-generated content and correct erroneous information, if any, in
23 such student record;

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

27 (6) A description of the procedures that a contractor will follow to
28 notify the local or regional board of education, in accordance with the
29 provisions of section 10-234dd, as amended by this act, when there has
30 been an unauthorized release, disclosure or acquisition of student
31 information, student records or student-generated content;

32 (7) A statement that student information, student records or
33 student-generated content shall not be retained or available to the
34 contractor upon completion of the contracted services unless a student,
35 parent or legal guardian of a student chooses to establish or maintain
36 an electronic account with the contractor for the purpose of storing
37 student-generated content;

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

41 (9) A statement that the laws of the state of Connecticut shall govern
42 the rights and duties of the contractor and the local or regional board

43 of education; and

44 (10) A statement that if any provision of the contract or the
45 application of the contract is held invalid by a court of competent
46 jurisdiction, the invalidity does not affect other provisions or
47 applications of the contract which can be given effect without the
48 invalid provision or application.

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

51 (c) A contractor shall implement and maintain security procedures
52 and practices designed to protect student information, student records
53 and student-generated content from unauthorized access, destruction,
54 use, modification or disclosure that, based on the sensitivity of the data
55 and the risk from unauthorized access, (1) use technologies and
56 methodologies that are consistent with the guidance issued pursuant
57 to section 13402(h)(2) of Public Law 111-5, as amended from time to
58 time, (2) maintain technical safeguards as it relates to the possession of
59 student records in a manner consistent with the provisions of 45 CFR
60 164.312, as amended from time to time, and (3) otherwise meet or
61 exceed industry standards.

62 (d) A contractor shall not use (1) student information, student
63 records or student-generated content for any purposes other than
64 those authorized pursuant to the contract, or (2) personally identifiable
65 information contained in student information, student records or
66 student-generated content to engage in targeted advertising.

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

70 (f) Any contract entered into on and after [October 1, 2016] July 1,
71 2018, that does not include a provision required by subsection (a) of
72 this section shall be void, provided the local or regional board of

73 education has given reasonable notice to the contractor and the
74 contractor has failed within a reasonable time to amend the contract to
75 include the provision required by subsection (a) of this section.

76 (g) Not later than five business days after executing a contract
77 pursuant to this section, a local or regional board of education shall
78 provide electronic notice to any student and the parent or legal
79 guardian of a student affected by the contract. The notice shall (1) state
80 that the contract has been executed and the date that such contract was
81 executed, (2) provide a brief description of the contract and the
82 purpose of the contract, and (3) state what student information,
83 student records or student-generated content may be collected as a
84 result of the contract. The local or regional board of education shall
85 post such notice and the contract on the board's Internet web site.

86 Sec. 2. Section 10-234cc of the general statutes is repealed and the
87 following is substituted in lieu thereof (*Effective from passage*):

88 (a) [An] On and after July 1, 2018, an operator shall (1) implement
89 and maintain security procedures and practices that meet or exceed
90 industry standards and that are designed to protect student
91 information, student records and student-generated content from
92 unauthorized access, destruction, use, modification or disclosure, and
93 (2) delete any student information, student records or student-
94 generated content within a reasonable amount of time if a student,
95 parent or legal guardian of a student or local or regional board of
96 education who has the right to control such student information
97 requests the deletion of such student information, student records or
98 student-generated content.

99 (b) [An] On and after July 1, 2018, an operator shall not knowingly:

100 (1) Engage in (A) targeted advertising on the operator's Internet web
101 site, online service or mobile application, or (B) targeted advertising on
102 any other Internet web site, online service or mobile application if such
103 advertising is based on any student information, student records,

104 student-generated content or persistent unique identifiers that the
105 operator has acquired because of the use of the operator's Internet web
106 site, online service or mobile application for school purposes;

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

110 (3) Sell, rent or trade student information, student records or
111 student-generated content unless the sale is part of the purchase,
112 merger or acquisition of an operator by a successor operator and the
113 operator and successor operator continue to be subject to the
114 provisions of this section regarding student information; or

115 (4) Disclose student information, student records or student-
116 generated content unless the disclosure is made (A) in furtherance of
117 school purposes of the Internet web site, online service or mobile
118 application, provided the recipient of the student information uses
119 such student information to improve the operability and functionality
120 of the Internet web site, online service or mobile application and
121 complies with subsection (a) of this section; (B) to ensure compliance
122 with federal or state law or regulations or pursuant to a court order;
123 (C) in response to a judicial order; (D) to protect the safety or integrity
124 of users or others, or the security of the Internet web site, online service
125 or mobile application; (E) to an entity hired by the operator to provide
126 services for the operator's Internet web site, online service or mobile
127 application, provided the operator contractually (i) prohibits the entity
128 from using student information, student records or student-generated
129 content for any purpose other than providing the contracted service to,
130 or on behalf of, the operator, (ii) prohibits the entity from disclosing
131 student information, student records or student-generated content
132 provided by the operator to subsequent third parties, and (iii) requires
133 the entity to comply with subsection (a) of this section; or (F) for a
134 school purpose or other educational or employment purpose requested
135 by a student or the parent or legal guardian of a student, provided

136 such student information is not used or disclosed for any other
137 purpose.

138 (c) [An] On and after July 1, 2018, an operator may use student
139 information (1) to maintain, support, improve, evaluate or diagnose
140 the operator's Internet web site, online service or mobile application,
141 (2) for adaptive learning purposes or customized student learning, (3)
142 to provide recommendation engines to recommend content or services
143 relating to school purposes or other educational or employment
144 purposes, provided such recommendation is not determined in whole
145 or in part by payment or other consideration from a third party, or (4)
146 to respond to a request for information or feedback from a student,
147 provided such response is not determined in whole or in part by
148 payment or other consideration from a third party.

149 (d) [An] On and after July 1, 2018, an operator may use de-identified
150 student information or aggregated student information (1) to develop
151 or improve the operator's Internet web site, online service or mobile
152 application, or other Internet web sites, online services or mobile
153 applications owned by the operator, or (2) to demonstrate or market
154 the effectiveness of the operator's Internet web site, online service or
155 mobile application.

156 (e) [An] On and after July 1, 2018, an operator may share aggregated
157 student information or de-identified student information for the
158 improvement and development of Internet web sites, online services or
159 mobile applications designed for school purposes.

160 (f) Nothing in this section shall be construed to (1) limit the ability of
161 a law enforcement agency to obtain student information, student
162 records or student-generated content from an operator as authorized
163 by law or pursuant to a court order, (2) limit the ability of a student or
164 the parent or legal guardian of a student to download, export, transfer
165 or otherwise save or maintain student information, student records or
166 student-generated content, (3) impose a duty upon a provider of an

167 interactive computer service, as defined in 47 USC 230, as amended
168 from time to time, to ensure compliance with this section by third-
169 party information content providers, as defined in 47 USC 230, as
170 amended from time to time, (4) impose a duty upon a seller or
171 provider of an electronic store, gateway, marketplace or other means
172 of purchasing or downloading software applications to review or
173 enforce compliance with this section on such software applications, (5)
174 limit an Internet service provider from providing a student, parent or
175 legal guardian of a student or local or regional board of education with
176 the ability to connect to the Internet, (6) prohibit an operator from
177 advertising other Internet web sites, online services or mobile
178 applications that are used for school purposes to parents or legal
179 guardians of students, provided such advertising does not result from
180 the operator's use of student information, student records or student-
181 generated content, or (7) apply to Internet web sites, online services or
182 mobile applications that are designed and marketed for use by
183 individuals generally, even if the account credentials created for an
184 operator's Internet web site, online service or mobile application may
185 be used to access Internet web sites, online services or mobile
186 applications that are designed and marketed for school purposes.

187 Sec. 3. Section 10-234dd of the general statutes is repealed and the
188 following is substituted in lieu thereof (*Effective from passage*):

189 (a) (1) [Upon] On and after July 1, 2018, upon the discovery of a
190 breach of security that results in the unauthorized release, disclosure
191 or acquisition of student information, excluding any directory
192 information contained in such student information, a contractor shall
193 notify, without unreasonable delay, but not more than thirty days after
194 such discovery, the local or regional board of education of such breach
195 of security. During such thirty-day period, the contractor may (A)
196 conduct an investigation to determine the nature and scope of such
197 unauthorized release, disclosure or acquisition, and the identity of the
198 students whose student information is involved in such unauthorized
199 release, disclosure or acquisition, or (B) restore the reasonable integrity

200 of the contractor's data system.

201 (2) [Upon] On and after July 1, 2018, upon the discovery of a breach
202 of security that results in the unauthorized release, disclosure or
203 acquisition of directory information, student records or student-
204 generated content, a contractor shall notify, without unreasonable
205 delay, but not more than sixty days after such discovery, the local or
206 regional board of education of such breach of security. During such
207 sixty-day period, the contractor may (A) conduct an investigation to
208 determine the nature and scope of such unauthorized release,
209 disclosure or acquisition, and the identity of the students whose
210 directory information, student records or student-generated content is
211 involved in such unauthorized release, disclosure or acquisition, or (B)
212 restore the reasonable integrity of the contractor's data system.

213 (3) [Upon] On and after July 1, 2018, upon receipt of notice of a
214 breach of security under subdivisions (1) or (2) of this subsection, a
215 local or regional board of education shall electronically notify, not later
216 than [forty-eight hours] two business days after receipt of such notice,
217 the student and the parents or guardians of the student whose student
218 information, student records or student-generated content is involved
219 in such breach of security. The local or regional board of education
220 shall post such notice on the board's Internet web site.

221 (b) [Upon] On and after July 1, 2018, upon the discovery of a breach
222 of security that results in the unauthorized release, disclosure or
223 acquisition of student information, student records or student-
224 generated content, an operator that is in possession of or maintains
225 student information, student records or student-generated content as a
226 result of a student's use of such operator's Internet web site, online
227 service or mobile application, shall (1) notify, without unreasonable
228 delay, but not more than thirty days after such discovery, the student
229 or the parents or guardians of such student of any breach of security
230 that results in the unauthorized release, disclosure or acquisition of
231 student information, excluding any directory information contained in

232 such student information, of such student, and (2) notify, without
233 unreasonable delay, but not more than sixty days after such discovery,
234 the student or the parents or guardians of such student of any breach
235 of security that results in the unauthorized release, disclosure or
236 acquisition of directory information, student records or student-
237 generated content of such student. During such thirty-day or sixty-day
238 period, the operator may (A) conduct an investigation to determine the
239 nature and scope of such unauthorized release, disclosure or
240 acquisition, and the identity of the students whose student
241 information, student records or student-generated content are
242 involved in such unauthorized release, disclosure or acquisition, or (B)
243 restore the reasonable integrity of the operator's data system.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	10-234bb
Sec. 2	<i>from passage</i>	10-234cc
Sec. 3	<i>from passage</i>	10-234dd

Statement of Purpose:

To delay the implementation of the requirements of the student data privacy act of 2016 until July 1, 2018.

[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.]