



General Assembly

February Session, 2018

Raised Bill No. 5444

LCO No. 2268



Referred to Committee on EDUCATION

Introduced by:
(ED)

***AN ACT CONCERNING REVISIONS TO THE STUDENT DATA
PRIVACY ACT.***

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

1 Section 1. (NEW) (*Effective from passage*) The Commission for
2 Educational Technology shall develop a uniform student data privacy
3 terms-of-service agreement addendum that may be used in contracts
4 entered into pursuant to section 10-234bb of the general statutes, as
5 amended by this act. The provisions of such addendum shall conform
6 to the requirements for a contract described in said section. The
7 commission shall make such addendum available on its Internet web
8 site, or in any online registry maintained by the commission for
9 contractors and operators, as those terms are defined in section 10-
10 234aa of the general statutes, and local and regional boards of
11 education.

12 Sec. 2. Section 10-234bb of the 2018 supplement to the general
13 statutes is repealed and the following is substituted in lieu thereof
14 (*Effective July 1, 2018*):

15 (a) On and after July 1, 2018, a local or regional board of education
16 shall enter into a written contract with a contractor any time such local
17 or regional board of education shares or provides access to student
18 information, student records or student-generated content with such
19 contractor. Each such contract shall include, but need not be limited to,
20 the following:

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

24 (2) A description of the means by which the local or regional board
25 of education may request the deletion of any student information,
26 student records or student-generated content in the possession of the
27 contractor that is not (A) otherwise prohibited from deletion or
28 required to be retained under state or federal law, or (B) stored as a
29 copy as part of a disaster recovery storage system and that is
30 inaccessible to the public and that is unable to be used in the normal
31 course of business by the contractor, provided such local or regional
32 board of education may request the deletion of any such student
33 information, student records or student-generated content if such copy
34 is used by the operator to repopulate accessible data following a
35 disaster recovery;

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

39 (4) A description of the procedures by which a student, parent or
40 legal guardian of a student may review personally identifiable
41 information contained in student information, student records or
42 student-generated content and correct erroneous information, if any, in
43 such student record;

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

47 (6) A description of the procedures that a contractor will follow to
48 notify the local or regional board of education, in accordance with the
49 provisions of section 10-234dd, when there has been an unauthorized
50 release, disclosure or acquisition of student information, student
51 records or student-generated content;

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

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

61 (9) A statement that the laws of the state of Connecticut shall govern
62 the rights and duties of the contractor and the local or regional board
63 of education; and

64 (10) A statement that if any provision of the contract or the
65 application of the contract is held invalid by a court of competent
66 jurisdiction, the invalidity does not affect other provisions or
67 applications of the contract which can be given effect without the
68 invalid provision or application.

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

71 (c) A contractor shall implement and maintain security procedures
72 and practices designed to protect student information, student records
73 and student-generated content from unauthorized access, destruction,
74 use, modification or disclosure that, based on the sensitivity of the data
75 and the risk from unauthorized access, (1) use technologies and
76 methodologies that are consistent with the guidance issued pursuant
77 to section 13402(h)(2) of Public Law 111-5, as amended from time to

78 time, (2) maintain technical safeguards as it relates to the possession of
79 student records in a manner consistent with the provisions of 45 CFR
80 164.312, as amended from time to time, and (3) otherwise meet or
81 exceed industry standards.

82 (d) A contractor shall not use (1) student information, student
83 records or student-generated content for any purposes other than
84 those authorized pursuant to the contract, or (2) personally identifiable
85 information contained in student information, student records or
86 student-generated content to engage in targeted advertising.

87 (e) Any provision of a contract entered into between a contractor
88 and a local or regional board of education on or after July 1, 2018, that
89 conflicts with any provision of this section shall be void.

90 (f) Any contract entered into on and after July 1, 2018, that does not
91 include a provision required by subsection (a) of this section shall be
92 void, provided the local or regional board of education has given
93 reasonable notice to the contractor and the contractor has failed within
94 a reasonable time to amend the contract to include the provision
95 required by subsection (a) of this section.

96 (g) (1) Each local and regional board of education shall maintain and
97 update, as necessary, an Internet web site with information relating to
98 all contracts entered into pursuant to this section. Not later than five
99 business days after executing a contract pursuant to this section, a local
100 or regional board of education shall [provide electronic notice to any
101 student and the parent or legal guardian of a student affected by the
102 contract] update the board's Internet web site to post notice of such
103 contract. The notice shall [(1)] include the contract and (A) state that
104 the contract has been executed and the date that such contract was
105 executed, [(2)] (B) provide a brief description of the contract and the
106 purpose of the contract, and [(3)] (C) state what student information,
107 student records or student-generated content may be collected as a
108 result of the contract. [The local or regional board of education shall
109 post such notice and the contract on the board's Internet web site.]

110 (2) On or before September first of each school year, the board of
111 education shall electronically notify students and the parents or legal
112 guardians of students of the address of the Internet web site described
113 in this subsection.

114 (h) A local or regional board of education and a contractor may
115 include in any contract executed pursuant to this section, the uniform
116 student data privacy terms-of-service agreement addendum, described
117 in section 1 of this act, to satisfy the requirements of this section.

118 (i) A local or regional board of education shall not be required to
119 enter into a contract pursuant to this section if two or fewer children
120 requiring special education require the use of the same Internet web
121 site, online service or mobile application operated by a consultant or
122 operator pursuant to such children's individualized education
123 program, and such Internet web site, online service or mobile
124 application is unable to comply with the provisions of this section,
125 provided (1) such Internet web site, online service or mobile
126 application complies with the Family Educational Rights and Privacy
127 Act of 1974, 20 USC 1232g, as amended from time to time, and the
128 Health Insurance Portability and Accountability Act of 1996, P.L. 104-
129 191, as amended from time to time, and (2) such board of education
130 has made a reasonable effort to find an equivalent Internet web site,
131 online service or mobile application operated by a consultant or
132 operator that complies with the provisions of this section. If such
133 children requiring special education use such Internet web site, online
134 service or mobile application, such consultant or operator shall comply
135 with the provisions of section 10-234cc, as amended by this act, for
136 such use.

137 Sec. 3. Section 10-234cc of the general statutes is repealed and the
138 following is substituted in lieu thereof (*Effective July 1, 2018*):

139 (a) An operator shall (1) implement and maintain security
140 procedures and practices that meet or exceed industry standards and
141 that are designed to protect student information, student records and

142 student-generated content from unauthorized access, destruction, use,
143 modification or disclosure, and (2) delete any student information,
144 student records or student-generated content within a reasonable
145 amount of time if a student, parent or legal guardian of a student or
146 local or regional board of education who has the right to control such
147 student information requests the deletion of such student information,
148 student records or student-generated content, unless (A) state or
149 federal law prohibits such deletion or otherwise requires the retention
150 of such student information, student records or student-generated
151 content, or (B) a copy of such student information, student records or
152 student-generated content is in the possession of the operator as part
153 of a disaster recovery storage system and is inaccessible to the public
154 and unable to be used in the normal course of business by the
155 operator, provided such student, parent or legal guardian of a student
156 or local or regional board of education may request the deletion of any
157 such student information, student records or student-generated
158 content if such copy is used by the operator to repopulate accessible
159 data following a disaster recovery.

160 (b) An operator shall not knowingly:

161 (1) Engage in (A) targeted advertising on the operator's Internet web
162 site, online service or mobile application, or (B) targeted advertising on
163 any other Internet web site, online service or mobile application if such
164 advertising is based on any student information, student records,
165 student-generated content or persistent unique identifiers that the
166 operator has acquired because of the use of the operator's Internet web
167 site, online service or mobile application for school purposes;

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

171 (3) Sell, rent or trade student information, student records or
172 student-generated content unless the sale is part of the purchase,
173 merger or acquisition of an operator by a successor operator and the

174 operator and successor operator continue to be subject to the
175 provisions of this section regarding student information; or

176 (4) Disclose student information, student records or student-
177 generated content unless the disclosure is made (A) in furtherance of
178 school purposes of the Internet web site, online service or mobile
179 application, provided the recipient of the student information uses
180 such student information to improve the operability and functionality
181 of the Internet web site, online service or mobile application and
182 complies with subsection (a) of this section; (B) to ensure compliance
183 with federal or state law or regulations or pursuant to a court order;
184 (C) in response to a judicial order; (D) to protect the safety or integrity
185 of users or others, or the security of the Internet web site, online service
186 or mobile application; (E) to an entity hired by the operator to provide
187 services for the operator's Internet web site, online service or mobile
188 application, provided the operator contractually (i) prohibits the entity
189 from using student information, student records or student-generated
190 content for any purpose other than providing the contracted service to,
191 or on behalf of, the operator, (ii) prohibits the entity from disclosing
192 student information, student records or student-generated content
193 provided by the operator to subsequent third parties, and (iii) requires
194 the entity to comply with subsection (a) of this section; or (F) for a
195 school purpose or other educational or employment purpose requested
196 by a student or the parent or legal guardian of a student, provided
197 such student information is not used or disclosed for any other
198 purpose.

199 (c) An operator may use student information (1) to maintain,
200 support, improve, evaluate or diagnose the operator's Internet web
201 site, online service or mobile application, (2) for adaptive learning
202 purposes or customized student learning, (3) to provide
203 recommendation engines to recommend content or services relating to
204 school purposes or other educational or employment purposes,
205 provided such recommendation is not determined in whole or in part
206 by payment or other consideration from a third party, or (4) to respond
207 to a request for information or feedback from a student, provided such

208 response is not determined in whole or in part by payment or other
209 consideration from a third party.

210 (d) An operator may use de-identified student information or
211 aggregated student information (1) to develop or improve the
212 operator's Internet web site, online service or mobile application, or
213 other Internet web sites, online services or mobile applications owned
214 by the operator, or (2) to demonstrate or market the effectiveness of the
215 operator's Internet web site, online service or mobile application.

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

220 (f) Nothing in this section shall be construed to (1) limit the ability of
221 a law enforcement agency to obtain student information, student
222 records or student-generated content from an operator as authorized
223 by law or pursuant to a court order, (2) limit the ability of a student or
224 the parent or legal guardian of a student to download, export, transfer
225 or otherwise save or maintain student information, student records or
226 student-generated content, (3) impose a duty upon a provider of an
227 interactive computer service, as defined in 47 USC 230, as amended
228 from time to time, to ensure compliance with this section by third-
229 party information content providers, as defined in 47 USC 230, as
230 amended from time to time, (4) impose a duty upon a seller or
231 provider of an electronic store, gateway, marketplace or other means
232 of purchasing or downloading software applications to review or
233 enforce compliance with this section on such software applications, (5)
234 limit an Internet service provider from providing a student, parent or
235 legal guardian of a student or local or regional board of education with
236 the ability to connect to the Internet, (6) prohibit an operator from
237 advertising other Internet web sites, online services or mobile
238 applications that are used for school purposes to parents or legal
239 guardians of students, provided such advertising does not result from
240 the operator's use of student information, student records or student-

241 generated content, or (7) apply to Internet web sites, online services or
242 mobile applications that are designed and marketed for use by
243 individuals generally, even if the account credentials created for an
244 operator's Internet web site, online service or mobile application may
245 be used to access Internet web sites, online services or mobile
246 applications that are designed and marketed for school purposes.

247 Sec. 4. Section 10-234ee of the 2018 supplement to the general
248 statutes is repealed and the following is substituted in lieu thereof
249 (*Effective July 1, 2018*):

250 The Department of Education, in consultation with the Commission
251 for Educational Technology, shall provide written guidance to local
252 and regional boards of education concerning the implementation of the
253 Family Educational Rights and Privacy Act of 1974, 20 USC 1232g, as
254 amended from time to time, and the [provisions of] laws relating to
255 student data privacy, pursuant to sections 10-234aa to 10-234dd,
256 inclusive, and section 1 of this act. Such written guidance shall include,
257 but need not be limited to, (1) a plain language explanation of how
258 such student data privacy laws are to be implemented, (2) information
259 about the uniform student data privacy terms-of-service agreement
260 addendum, described in section 1 of this act, and (3) how such
261 addendum may be incorporated into contracts executed pursuant to
262 section 10-234bb, as amended by this act.

263 Sec. 5. Section 5 of public act 16-189, as amended by section 4 of
264 public act 17-200, is repealed and the following is substituted in lieu
265 thereof (*Effective from passage*):

266 (a) There is established a task force to study issues relating to
267 student data privacy. Such study shall include, but not be limited to,
268 an examination of (1) when a parent or guardian of a student may
269 reasonably or appropriately request the deletion of student
270 information, student records or student-generated content that is in the
271 possession of a contractor or operator, (2) means of providing notice to
272 parents and guardians of students when a student uses an Internet

273 web site, online service or mobile application of an operator for
274 instructional purposes in a classroom or as part of an assignment by a
275 teacher, (3) reasonable penalties for violations of the provisions of
276 sections 10-234bb to 10-234dd, inclusive, of the general statutes, as
277 amended by this act, such as restricting a contractor or operator from
278 accessing or collecting student information, student records or student-
279 generated content, (4) strategies in effect in other states that ensure that
280 school employees, contractors and operators are trained in data
281 security handling, compliance and best practices, (5) the feasibility of
282 developing a school district-wide list of approved Internet web sites,
283 online services and mobile applications, (6) the use of an
284 administrative hearing process designed to provide legal recourse to
285 students and parents and guardians of students aggrieved by any
286 violation of sections 10-234bb to 10-234dd, inclusive, of the general
287 statutes, as amended by this act, (7) the feasibility of creating an
288 inventory of student information, student records and student-
289 generated content currently collected pursuant to state and federal
290 law, (8) the feasibility of developing a tool kit for use by local and
291 regional boards of education to (A) improve student data contracting
292 practices and compliance, including a state-wide template for use by
293 districts, (B) increase school employee awareness of student data
294 security best practices, including model training components, (C)
295 develop district-wide lists of approved software applications and
296 Internet web sites, and (D) increase the availability and accessibility of
297 information on student data privacy for parents and guardians of
298 students and educators, and (9) any other issue involving student data
299 security that the task force deems relevant.

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

301 (1) Two appointed by the speaker of the House of Representatives,
302 one of whom is an operator, pursuant to section 10-234aa of the
303 general statutes and one of whom is an expert in information
304 technology systems;

305 (2) Two appointed by the president pro tempore of the Senate, one

306 of whom is a representative or member of the Connecticut Education
307 Association and one of whom is an attorney with expertise in
308 Connecticut school law;

309 (3) Two appointed by the majority leader of the House of
310 Representatives, one of whom is a representative of a contractor,
311 pursuant to section 10-234aa of the general statutes and one of whom
312 is an expert in information technology systems;

313 (4) Two appointed by the majority leader of the Senate, one of
314 whom is a representative or member of the Connecticut Parent Teacher
315 Association and one of whom is a representative or member of the
316 American Federation of Teachers;

317 (5) Two appointed by the minority leader of the House of
318 Representatives, one of whom is a student privacy advocate and one of
319 whom is a representative or member of the Connecticut Association of
320 Boards of Education;

321 (6) Two appointed by the minority leader of the Senate, one of
322 whom is a representative of the Connecticut Association of School
323 Administrators and one of whom is a representative or member of the
324 Connecticut Association of Public School Superintendents;

325 (7) The Attorney General, or the Attorney General's designee; [and]

326 (8) The Commissioner of Education or the commissioner's designee;
327 [.] and

328 (9) The executive director of the Connecticut Association of Schools,
329 or the executive director's designee.

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

333 (d) The speaker of the House of Representatives and the president
334 pro tempore of the Senate shall select the chairpersons of the task force

335 from among the members of the task force. Such chairpersons shall
 336 schedule the first meeting of the task force, which shall be held not
 337 later than sixty days after the effective date of this section.

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

341 (f) Not later than January 1, [2018] 2019, the task force shall submit a
 342 report on its findings and recommendations to the joint standing
 343 committee of the General Assembly having cognizance of matters
 344 relating to general law and education, in accordance with the
 345 provisions of section 11-4a of the general statutes. The task force shall
 346 terminate on the date that it submits such report or January 1, [2018]
 347 2019, whichever is later.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>July 1, 2018</i>	10-234bb
Sec. 3	<i>July 1, 2018</i>	10-234cc
Sec. 4	<i>July 1, 2018</i>	10-234ee
Sec. 5	<i>from passage</i>	PA 16-189, Sec. 5

Statement of Purpose:

To create a uniform student data privacy terms-of-service agreement addendum for use in contracts, to require a one-time annual notice relating to contracts entered into by the board of education, to require the Department of Education to provide written guidance on the laws relating to student data privacy, to authorize the retention of student records required by state and federal law and for purposes of disaster recovery systems, to allow the use of certain web sites and mobile applications that do not comply with the law if specified in a child's IEP, and to add the executive director of the Connecticut Association of Schools to the membership of the student data privacy task force.

[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.]