



General Assembly

**Substitute Bill No. 5444**

February Session, 2018



**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13 statutes is repealed and the following is substituted in lieu thereof  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 (i)  
30 inaccessible to the public, and (ii) 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 has been 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] post notice of such contract on the board's Internet web site.  
103 The notice shall [(1)] include the contract and (A) state that the contract  
104 has been executed and the date that such contract was executed, [(2)]  
105 (B) provide a brief description of the contract and the purpose of the  
106 contract, and [(3)] (C) state what student information, student records  
107 or student-generated content may be collected as a result of the  
108 contract. [The local or regional board of education shall post such  
109 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 described in this subparagraph if such copy is used by the  
159 operator to repopulate accessible 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, set forth in 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] as defined in section 10-  
303 234aa of the general statutes and one of whom is an expert in  
304 information 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] as defined in section 10-234aa of the general statutes and  
312 one of whom 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 Legislative Commissioners:**

In Section 2(a)(2) clause designators (i) and (ii) were added and "is used" was changed to "has been used" for clarity; in Section 2(g)(1), "update the board's Internet web site to post notice of such contract" was changed to "post notice of such contract on the board's Internet web site" for clarity; in Section 3(a)(2)(B), "described in this subparagraph" was added for clarity; in Section 4, "pursuant to" was changed to "set forth in" for accuracy; and in Section 5(b)(1) and (b)(3), "pursuant to" was changed to "[pursuant to] as defined in" for accuracy.

**ED**            *Joint Favorable Subst. -LCO*