

HOUSE OF REPRESENTATIVES
CONFERENCE COMMITTEE REPORT

Mr. President:
Mr. Speaker:

The Conference Committee, to which was referred

HB1989

By: Brumbaugh of the House and Treat of the Senate

Title: Records; creating the Student Data Accessibility, Transparency and Accountability Act of 2013; emergency.

Together with Engrossed Senate Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the Senate recede from its amendment; and
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,

HOUSE CONFEREES

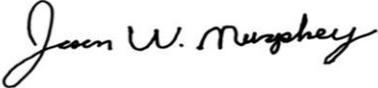
Brumbaugh, David  Derby, David



Dorman, Joe  Fisher, Dan



Hall, Elise  Morrissette, Richard

Murphey, Jason  Scott, Seneca

Smalley, Jason  Turner, Mike



Walker, Ken  Wood, Justin F.



HB1989 CCR A

SENATE CONFEREES

Treat

Griffin

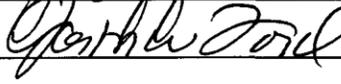
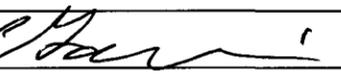
Ford

Brinkley

Garrison

Paddack




AUTHOR(s)/COAUTHOR(s)CURRENTLY IN THE QUEUE for HB1989

As of 5/14/2013 1:19:40 PM

Add as coauthor Senator Jolley

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 CONFERENCE COMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 HOUSE BILL NO. 1989

By: Brumbaugh, Nelson, Kern,
Ritze, Scott, Murphey,
Turner, Walker and Wood of
the House

7 and

8 Treat of the Senate

9
10
11 CONFERENCE COMMITTEE SUBSTITUTE

12 An Act relating to records; creating the Student Data
13 Accessibility, Transparency and Accountability Act of
14 2013; defining terms; requiring State Board of
15 Education to create certain data inventory and to
16 develop certain policies; prohibiting the transfer of
17 certain data; providing certain exceptions; requiring
18 a data security plan; requiring compliance with
19 certain laws and policies; requiring certain
20 contracts include privacy and security provisions;
21 requiring Board to notify Governor and Legislature
22 annually concerning certain information; requiring
23 Board to adopt certain rules; providing for
24 consideration of certain existing data; limiting
interference with certain laws; providing for
codification; providing an effective date; and
declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3-168 of Title 70, unless there
3 is created a duplication in numbering, reads as follows:

4 A. This section shall be known and may be cited as the "Student
5 Data Accessibility, Transparency and Accountability Act of 2013".

6 B. As used in this act:

7 1. "Board" means the State Board of Education;

8 2. "Department" means the State Department of Education;

9 3. "Data system" means the Oklahoma State Department of
10 Education student data system;

11 4. "Aggregate data" means data collected and/or reported at the
12 group, cohort, or institutional level;

13 5. "De-identified data" means a student dataset in which parent
14 and student identifying information, including the state-assigned
15 student identifier, has been removed;

16 6. "Student testing number" means the unique student identifier
17 assigned by the state to each student that shall not be or include
18 the Social Security number of a student in whole or in part; and

19 7. "Student data" means data collected and/or reported at the
20 individual student level included in a student's educational record.

21 a. "Student data" includes:

22 (1) state and national assessment results, including
23 information on untested public school students,
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- (2) course taking and completion, credits earned, and other transcript information,
- (3) course grades and grade point average,
- (4) date of birth, grade level and expected graduation date/graduation cohort,
- (5) degree, diploma, credential attainment, and other school exit information such as General Educational Development and drop-out data,
- (6) attendance and mobility,
- (7) data required to calculate the federal four-year adjusted cohort graduation rate, including sufficient exit and drop-out information,
- (8) discipline reports limited to objective information sufficient to produce the federal Title IV Annual Incident Report,
- (9) remediation,
- (10) special education data, and
- (11) demographic data and program participation information.

b. Unless included in a student's educational record, "student data" shall not include:

- (1) juvenile delinquency records,
- (2) criminal records,
- (3) medical and health records,

- 1 (4) student Social Security number, and
- 2 (5) student biometric information.

3 C. The State Board of Education shall:

4 1. Create, publish and make publicly available a data inventory
5 and dictionary or index of data elements with definitions of
6 individual student data fields currently in the student data system
7 including:

- 8 a. any individual student data required to be reported by
9 state and federal education mandates,
- 10 b. any individual student data which has been proposed
11 for inclusion in the student data system with a
12 statement regarding the purpose or reason for the
13 proposed collection, and
- 14 c. any individual student data that the State Department
15 of Education collects or maintains with no current
16 purpose or reason;

17 2. Develop, publish and make publicly available policies and
18 procedures to comply with the Federal Family Educational Rights and
19 Privacy Act (FERPA) and other relevant privacy laws and policies,
20 including but not limited to:

- 21 a. access to student and de-identified data in the
22 student data system shall be restricted to:
 - 23 (1) the authorized staff of the State Department of
24 Education and the Department's contractors who require

1 such access to perform their assigned duties,
2 including staff and contractors from the Information
3 Services Division of the Office of Management and
4 Enterprise Services assigned to the Department,

5 (2) district administrators, teachers and school
6 personnel who require such access to perform their
7 assigned duties,

8 (3) students and their parents, and

9 (4) the authorized staff of other state agencies in
10 Oklahoma as required by law and/or defined by
11 interagency data-sharing agreements,

12 b. the State Department of Education shall use only
13 aggregate data in public reports or in response to
14 record requests in accordance with paragraph 3 of this
15 subsection,

16 c. the State Department of Education shall develop
17 criteria for the approval of research and data
18 requests from state and local agencies, the State
19 Legislature, researchers and the public:

20 (1) unless otherwise approved by the State Board of
21 Education, student data maintained by the State
22 Department of Education shall remain
23 confidential, and
24

1 (2) unless otherwise approved by the State Board of
2 Education to release student or de-identified
3 data in specific instances, the Department may
4 only use aggregate data in the release of data in
5 response to research and data requests, and

6 d. notification to students and parents regarding their
7 rights under federal and state law;

8 3. Unless otherwise approved by the State Board of Education,
9 the State Department of Education shall not transfer student or de-
10 identified data deemed confidential under division (1) of
11 subparagraph c of paragraph 2 of subsection C of this section to any
12 federal, state or local agency or other organization/entity outside
13 of the State of Oklahoma, with the following exceptions:

14 a. a student transfers out of state or a school/district
15 seeks help with locating an out-of-state transfer,

16 b. a student leaves the state to attend an out-of-state
17 institution of higher education or training program,

18 c. a student registers for or takes a national or
19 multistate assessment,

20 d. a student voluntarily participates in a program for
21 which such a data transfer is a condition/requirement
22 of participation,
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- e. the Department enters into a contract that governs databases, assessments, special education or instructional supports with an out-of-state vendor, or
- f. a student is classified as "migrant" for federal reporting purposes;

4. Develop a detailed data security plan that includes:

- a. guidelines for authorizing access to the student data system and to individual student data including guidelines for authentication of authorized access,
- b. privacy compliance standards,
- c. privacy and security audits,
- d. breach planning, notification and procedures, and
- e. data retention and disposition policies;

5. Ensure routine and ongoing compliance by the State

Department of Education with FERPA, other relevant privacy laws and policies, and the privacy and security policies and procedures developed under the authority of this act, including the performance of compliance audits;

6. Ensure that any contracts that govern databases, assessments or instructional supports that include student or de-identified data and are outsourced to private vendors include express provisions that safeguard privacy and security and include penalties for noncompliance; and

1 7. Notify the Governor and the Legislature annually of the
2 following:

3 a. new student data proposed for inclusion in the state
4 student data system:

5 (1) any new student data collection proposed by the
6 State Board of Education becomes a provisional
7 requirement to allow districts and their local
8 data system vendors the opportunity to meet the
9 new requirement, and

10 (2) the State Board of Education must submit any new
11 "provisional" student data collection to the
12 Governor and the Legislature for their approval
13 within one (1) year in order to make the new
14 student data a permanent requirement. Any
15 provisional student data collection not approved
16 by the Governor and the Legislature by the end of
17 the next legislative session expires and is no
18 longer required,

19 b. changes to existing data collections required for any
20 reason, including changes to federal reporting
21 requirements made by the U.S. Department of Education,

22 c. an explanation of any exceptions granted by the State
23 Board of Education in the past year regarding the
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1 release or out-of-state transfer of student or de-
2 identified data, and

3 d. the results of any and all privacy compliance and
4 security audits completed in the past year.

5 Notifications regarding privacy compliance and
6 security audits shall not include any information that
7 would itself pose a security threat to the state or
8 local student information systems or to the secure
9 transmission of data between state and local systems
10 by exposing vulnerabilities.

11 D. The State Board of Education shall adopt rules for the State
12 Department of Education to implement the provisions of the Student
13 Data Accessibility, Transparency and Accountability Act of 2013.

14 E. Upon the effective date of this act, any existing collection
15 of student data by the State Department of Education shall not be
16 considered a new student data collection in accordance with
17 subparagraph a of paragraph 7 of subsection C of this section.

18 F. Nothing in this act shall interfere with the State
19 Department of Education's compliance with the Educational
20 Accountability Reform Act.

21 SECTION 2. This act shall become effective July 1, 2013.

22 SECTION 3. It being immediately necessary for the preservation
23 of the public peace, health and safety, an emergency is hereby
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1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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