STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1989 By: Brumbaugh

COMMITTEE SUBSTITUTE

An Act relating to records; creating the Student Data Accessibility, Transparency and Accountability Act of 2013; defining terms; requiring State Board of Education to create certain data inventory and to develop certain policies; requiring Board to notify Governor and Legislature annually concerning certain information; requiring Board to adopt certain rules; amending 65 O.S. 2011, Section 1-105, which relates to disclosure of records; prohibiting disclosure of certain information; providing exceptions; defining term; requiring certain requests be reported to law enforcement; providing for codification; and declaring an emergency.

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

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

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

B. The purpose of the Student Data Accessibility, Transparency and Accountability Act of 2013 is to establish a system of

safeguards to protect student privacy and to ensure the integrity of the state student data system.

C. As used in this act:

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

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

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

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

5. "Unit data" means data collected and/or reported at the individual student-level;

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

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

8. "Student data" means the unit data relating to student performance.

a. "Student data" includes:

(1) state and national assessment results,

(2) course taking and completion, and credits earned,

(3) course grades and grade point average,

(4) date of birth, grade level and expected graduation date/graduation cohort,

(5) degree, diploma, or credential attainment,

(6) enrollment,

(7) attendance and mobility,

(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.

b. "Student data" does not include:

(1) juvenile delinquency records,

(2) criminal records,

(3) medical and health records,

(4) student Social Security number, and

(5) student biometric information.

D. The State Board of Education shall:

1. Create and publish (i.e., make publicly available) a data inventory of:

a. individual student-level unit data currently in the student data system including:

(1) any individual student data required to be reported by state and federal education mandates, and

(2) any individual student data which has been proposed for inclusion in the student data system;

2. Develop and publish policies and procedures to comply with the Federal Family Educational Rights and Privacy Act and other relevant privacy laws and policies, including but not limited to:

a. access to unit and de-identified data in the student data system shall be restricted to the authorized staff of the State Department of Education who require such access to perform their assigned duties,

b. the State Department of Education shall use only aggregate data in public reports,

c. the State Department of Education shall develop criteria for the approval of research and data requests from state and local agencies, the State Legislature, researchers and the public. Unless otherwise approved by the State Board of Education to release unit or de-identified data in specific instances, the Department may only use aggregate data in the release of data in response to research and data requests, and

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

3. Unless otherwise approved by the State Board of Education, the State Department of Education shall not transfer unit or de-identified data to any federal, state or local agency or other organization/entity outside of the State of Oklahoma, with the following exceptions:

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

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

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

d. a student voluntarily participates in a program for which such a data transfer is a condition/requirement of participation,

e. the Department enters into a contract that governs databases, assessments 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 notification and procedures, and

e. data retention and disposition policies;

5. Ensure routine and ongoing compliance by the State Department of Education with the Federal Family Educational Rights and Privacy Act, 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 include unit or de-identified data, and are outsourced to private vendors that include express provisions that safeguard privacy and security and include penalties for noncompliance; and

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

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

(1) any new student data collection proposed by the State Board of Education becomes a provisional

requirement to allow districts and their local data system vendors the opportunity to meet the new requirement, and

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

b. an explanation of any exceptions granted by the State Board of Education in the past year regarding the release or out-of-state transfer of unit or de-identified data, and

c. the results of any and all privacy compliance and security audits completed in the past year.

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

SECTION 2. AMENDATORY 65 O.S. 2011, Section 1-105, is amended to read as follows:

Section 1-105. A. Any library which is in whole or in part supported by public funds including but not limited to public, academic, school or special libraries, and having records indicating which of its documents or other materials, regardless of format, have been loaned to or used by an identifiable individual or group shall not disclose such records to any person except to:

1. Persons acting within the scope of their duties in the administration of the library;

2. Persons authorized to inspect such records, in writing, by the individual or group; or

3. By order of a court of law.

B. The requirements of this section shall not prohibit middle and elementary school libraries from maintaining a system of records that identifies the individual or group to whom library materials have been loaned even if such system permits a determination, independent of any disclosure of such information by the library, that documents or materials have been loaned to an individual or group.

C. All registration information of minors collected by any library which is supported in whole or in part by public funds including but not limited to public, academic, school or special libraries shall not be disclosed to any person except:

1. Persons acting only within the legitimate scope of their duties in the administration of the library;

2. Persons authorized to inspect such records, in writing, by the individual; or

3. By order of a court of law.

For purposes of this section, "registration information" includes any information required of a minor in order to become eligible to borrow books, utilize library services, and other materials.

D. Any suspicious requests for records of minors that may be indicative of criminal intent shall be reported immediately to appropriate law enforcement authorities.

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

54-1-7453 LRB 02/28/13