

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 HOUSE BILL 1989

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

6 and

7 Treat of the Senate

8
9
10 COMMITTEE SUBSTITUTE

11 An Act relating to records; creating the Student Data
12 Accessibility, Transparency and Accountability Act of
13 2013; providing short title; defining terms;
14 requiring State Board of Education to create certain
15 data inventory and to develop certain policies;
16 prohibiting certain transfers of data; providing
17 exceptions; requiring Board to develop certain plan
18 and ensure certain compliance; providing conditions
19 for certain contracts and vendors; requiring Board to
20 notify Governor and Legislature annually concerning
21 certain information; requiring Board to adopt certain
22 rules; providing for consideration of existing data
23 collection; providing certain construction; providing
24 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:

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

3 B. As used in this act:

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

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

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

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

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

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

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

18 8. "Student data" means the student-level data relating to
19 student performance.

20 a. "Student data" includes:

21 (1) state and national assessment results,

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

23 (3) course grades and grade point average,

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- (4) date of birth, grade level and expected graduation date/graduation cohort,
- (5) degree, diploma, or credential attainment,
- (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.

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, publish and make publicly available a data inventory and dictionary or index of data elements with definitions of individual student-level data fields currently in the student data system including:

- a. any individual student data required to be reported by state and federal education mandates,
- b. any individual student data which has been proposed for inclusion in the student data system, and
- c. any individual student data that the State Department of Education collects or maintains with no current purpose or reason;

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

- a. access to student-level and de-identified data in the student data system shall be restricted to the authorized staff of the State Department of Education and the Department's contractors who require such access to perform their assigned duties, including staff and contractors from the Information Services Division of the Office of Management and Enterprise Services assigned to the Department,
- b. the State Department of Education shall use only aggregate data in public reports or in response to record requests in accordance with paragraph 3 of this subsection,

1 c. the State Department of Education shall develop
2 criteria for the approval of research and data
3 requests from state and local agencies, the State
4 Legislature, researchers and the public:

5 (1) unless otherwise approved by the State Board of
6 Education, student-level data maintained by the
7 State Department of Education shall remain
8 confidential, and

9 (2) unless otherwise approved by the State Board of
10 Education to release student-level or de-
11 identified data in specific instances, the
12 Department may only use aggregate data in the
13 release of data in response to research and data
14 requests, and

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

17 3. Unless otherwise approved by the State Board of Education,
18 the State Department of Education shall not transfer student-level
19 or de-identified data deemed confidential under division (1) of
20 subparagraph c of paragraph 2 of subsection D of this section to any
21 federal, state or local agency or other organization/entity outside
22 of the State of Oklahoma, with the following exceptions:

23 a. a student transfers out of state or a school/district
24 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, 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 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

1 authority of this act, including the performance of compliance
2 audits;

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

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

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

12 (1) any new student data collection proposed by the
13 State Board of Education becomes a provisional
14 requirement to allow districts and their local
15 data system vendors the opportunity to meet the
16 new requirement, and

17 (2) the State Board of Education must submit any new
18 "provisional" student data collection to the
19 Governor and the Legislature for their approval
20 within one (1) year in order to make the new
21 student data a permanent requirement. Any
22 provisional student data collection not approved
23 by the Governor and the Legislature by the end of
24

1 the next legislative session expires and is no
2 longer required,

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

6 c. an explanation of any exceptions granted by the State
7 Board of Education in the past year regarding the
8 release or out-of-state transfer of student-level or
9 de-identified data, and

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

12 Notifications regarding privacy compliance and
13 security audits shall not include any information that
14 would itself pose a security threat to the state or
15 local student information systems or to the secure
16 transmission of data between state and local systems
17 by exposing vulnerabilities.

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

21 F. Upon the effective date of this act, any existing collection
22 of student-level data by the State Department of Education shall not
23 be considered a new student data collection in accordance with
24 subparagraph a of paragraph 7 of subsection D of this section.

1 G. Nothing in this act shall interfere with the State
2 Department of Education's compliance with the Educational
3 Accountability Reform Act.

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

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