

1 **SENATE FLOOR VERSION**

2 March 23, 2021

3 ENGROSSED HOUSE
4 BILL NO. 1104

By: Vancuren, Dempsey,
Rosecrants and Bell of the
House

5 and

6 Montgomery of the Senate
7

8
9 An Act relating to schools; amending Section 1,
10 Chapter 356, O.S.L. 2013, as amended by Section 1,
Chapter 33, O.S.L. 2015 (70 O.S. Supp. 2020, Section
11 3-168), which relates to the Student Data
Accessibility, Transparency and Accountability Act of
12 2013; and modifying definition of student data to
include tribal affiliation and certain data related
13 to American Indian heritage.

14
15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16 SECTION 1. AMENDATORY Section 1, Chapter 356, O.S.L.
17 2013, as amended by Section 1, Chapter 33, O.S.L. 2015 (70 O.S.
18 Supp. 2020, Section 3-168), is amended to read as follows:

19 Section 3-168. A. This section shall be known and may be cited
20 as the "Student Data Accessibility, Transparency and Accountability
21 Act of 2013".

22 B. As used in this act:

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

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

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

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

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

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

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

13 a. "Student data" includes:

- 14 (1) state and national assessment results, including
15 information on untested public school students,
16 (2) course taking and completion, credits earned, and
17 other transcript information,
18 (3) course grades and grade point average,
19 (4) date of birth, grade level and expected
20 graduation date/graduation cohort,
21 (5) degree, diploma, credential attainment, and other
22 school exit information such as General
23 Educational Development and ~~drop-out~~ dropout
24 data,

- 1 (6) attendance and mobility,
- 2 (7) data required to calculate the federal four-year
- 3 adjusted cohort graduation rate, including
- 4 sufficient exit and ~~drop-out~~ dropout information,
- 5 (8) discipline reports limited to objective
- 6 information sufficient to produce the federal
- 7 Title IV Annual Incident Report,
- 8 (9) remediation,
- 9 (10) special education data,
- 10 (11) demographic data and program participation
- 11 information, including tribal affiliation and
- 12 other data associated with students who have been
- 13 identified as having American Indian heritage,
- 14 and
- 15 (12) military student identifier.

16 b. Unless included in a student's educational record,

17 "student data" shall not include:

- 18 (1) juvenile delinquency records,
- 19 (2) criminal records,
- 20 (3) medical and health records,
- 21 (4) student Social Security number, and
- 22 (5) student biometric information; and

23 8. "Military student identifier" means a unique identifier for
24 each student whose parent or guardian is a member of the Armed

1 Forces of the United States, a reserve component of the Armed Forces
2 of the United States or the National Guard which will allow for the
3 disaggregation of each category.

4 C. The State Board of Education shall:

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

9 a. any individual student data required to be reported by
10 state and federal education mandates,

11 b. any individual student data which has been proposed
12 for inclusion in the student data system with a
13 statement regarding the purpose or reason for the
14 proposed collection, and

15 c. any individual student data that the State Department
16 of Education collects or maintains with no current
17 purpose or reason;

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

22 a. access to student and de-identified data in the
23 student data system shall be restricted to:

24

1 (1) the authorized staff of the State Department of
2 Education and the Department's contractors who
3 require such access to perform their assigned
4 duties, including staff and contractors from the
5 Information Services Division of the Office of
6 Management and Enterprise Services assigned to
7 the Department,

8 (2) district administrators, teachers and school
9 personnel who require such access to perform
10 their assigned duties,

11 (3) students and their parents, and

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

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

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

23 (1) unless otherwise approved by the State Board of
24 Education, student data maintained by the State

1 Department of Education shall remain
2 confidential, and

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

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

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

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

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

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

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

- e. the Department enters into a contract that governs databases, assessments, special education or instructional supports with an out-of-state vendor,
- f. a student is classified as "migrant" for federal reporting purposes, or
- g. a student with a military student identifier for purposes of assisting the Department of Defense in developing policy and military child education initiatives;

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

1 and are outsourced to private vendors include express provisions
2 that safeguard privacy and security and include penalties for
3 noncompliance;

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

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

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

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

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

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

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

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

13 8. By July 1, 2016, include a military student identifier in
14 the state student data system.

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

18 E. Upon the effective date of this act, any existing collection
19 of student data by the State Department of Education and the
20 addition of a military student identifier to the student data
21 collected by the Department after the effective date of this act
22 shall not be considered a new student data collection in accordance
23 with subparagraph a of paragraph 7 of subsection C of this section.

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

4 COMMITTEE REPORT BY: COMMITTEE ON EDUCATION
5 March 23, 2021 - DO PASS
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