

STATE OF OKLAHOMA

2nd Session of the 54th Legislature (2014)

COMMITTEE SUBSTITUTE
FOR

HOUSE BILL NO. 2911

By: Brumbaugh

COMMITTEE SUBSTITUTE

An Act relating to schools; amending Section 1, Chapter 356, O.S.L. 2013 (70 O.S. Supp. 2013, Section 3-168), which relates to the Student Data Accessibility, Transparency and Accountability Act of 2013; clarifying statutory language; deleting certain restriction to access student data; prohibiting the linking of certain individual student data with other data; prohibiting certain storage of student data; prohibiting the connection of software and applications on certain devices which allows for the sharing of information; requiring school districts to obtain an annual consent form regarding the release of individual student data; requiring school districts to retain a signed copy; prohibiting the State Board of Education from entering into certain agreements or consortiums; prohibiting the Board from using certain funds for the statewide longitudinal data system or for complying with a certain executive order; prohibiting state officials and entities from entering into agreements or contracts which cede state control over state educational standards and systems; directing state officials and entities to initiate amendments to certain agreements or contracts; providing for codification; and providing an effective date.

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

1 SECTION 1. AMENDATORY Section 1, Chapter 356, O.S.L.
2 2013 (70 O.S. Supp. 2013, Section 3-168), is amended to read as
3 follows:

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

7 B. As used in ~~this act~~ the Student Data Accessibility,
8 Transparency and Accountability Act of 2013:

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

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

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

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

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

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

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

23 a. "Student data" includes:
24

- (1) state and national assessment results, including information on untested public school students,
- (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,
- (4) student Social Security number, and
- (5) student biometric information.

C. 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 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 with a statement regarding the purpose or reason for the proposed collection, 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 and de-identified data in the student data system shall be restricted to:

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, and

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

Department of Education shall remain
confidential, and

(2) unless otherwise approved by the State Board of
Education to release student 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 student or de-
identified data deemed confidential under division (1) of
subparagraph c of paragraph 2 of this subsection ~~C of this section~~
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, 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, the State Department of
12 Education and school districts shall:

13 1. Not link individual student data collected on a student in
14 early childhood education with data collected on that individual
15 student during kindergarten through twelfth grade and with data
16 collected on that individual student at the postsecondary or
17 workforce level;

18 2. Not link individual student data collected on a student in
19 kindergarten through twelfth grade with data collected on that
20 individual student at the postsecondary or workforce level;

21 3. Not link individual student data collected on a student in
22 early childhood education or during kindergarten through twelfth
23 grade with any state agency data outside the State Department of
24 Education;

1 4. Prevent individual student data from being stored by a
2 vendor or organization that is independent of the State Department
3 of Education; and

4 5. Prevent individual student data from being collected via
5 digital software or interactive application on any electronic device
6 which has been provided to a student or is used by a student for
7 educational purposes inside a public school that could be shared
8 with a vendor or organization that is independent of the State
9 Department of Education.

10 E. 1. In addition to the notification provided for in
11 subparagraph d of paragraph 2 of subsection C of this section,
12 school districts shall be required to annually obtain a signed
13 written consent form from the parent or guardian of a student which
14 explains any release of individual student data which is not
15 otherwise required by law and which may be made by the school
16 district or the State Department of Education and shall include the
17 purpose of the release and the name of the entity to which the data
18 is released.

19 2. School districts shall retain a copy of each signed consent
20 form.

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

1 ~~E.~~ G. Upon the effective date of ~~this act~~ the Student Data
2 Accessibility, Transparency and Accountability Act of 2013, any
3 existing collection of student data by the State Department of
4 Education shall not be considered a new student data collection in
5 accordance with subparagraph a of paragraph 7 of subsection C of
6 this section.

7 ~~F.~~ H. Nothing in ~~this act~~ the Student Data Accessibility,
8 Transparency and Accountability Act of 2013 shall interfere with the
9 State Department of Education's compliance with the Educational
10 Accountability Reform Act.

11 SECTION 2. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 3-181 of Title 70, unless there
13 is created a duplication in numbering, reads as follows:

14 In order to prohibit the federal government from improperly
15 inserting itself into the clearly established right of the state to
16 educate the citizens of the state, to safeguard against any threat
17 of federal intrusion into the development and implementation of the
18 state academic standards and to guarantee the implementation of good
19 public policy:

20 1. The State Board of Education shall not enter into an
21 agreement or join a consortium that would cede any control of state
22 academic standards to an entity outside of the state;

23 2. The State Board of Education shall not use federal funds,
24 enter into any agreement for federal funds or use private funds

1 collected or dispersed from outside of the state to further the
2 construction, enhancement or expansion of any statewide longitudinal
3 data system or to comply with the provisions of Executive Order
4 2013-40 issued by the Governor on December 4, 2013;

5 3. No official, agent, agency or board of the state shall enter
6 into agreement or contract with any federal agency or private entity
7 which in any way cedes state discretion or control over academic
8 content standards, teaching standards, student assessment or student
9 data collection and use in the public school system, including but
10 not limited to agreements and contracts related to funding for
11 public schools and school programs; and

12 4. Any official, agent, agency or board of the state that is a
13 party to any existing agreement or contract with any federal agency
14 or private entity which in any way cedes state discretion or control
15 over academic content standards, teaching standards, student
16 assessment, or student data collection and use in the public school
17 system, including but not limited to agreements and contracts
18 related to funding for public schools and school programs, shall
19 initiate necessary efforts to amend the agreements or contracts to
20 comply with this section.

21 SECTION 3. This act shall become effective November 1, 2014.

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23 54-2-10489 LRB 02/27/14
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