

1 ENGROSSED HOUSE
2 BILL NO. 2911

By: Brumbaugh, Turner and Kern
of the House

3 and

4 Treat of the Senate

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6
7 An Act relating to schools; amending Section 1,
8 Chapter 356, O.S.L. 2013 (70 O.S. Supp. 2013, Section
9 3-168), which relates to the Student Data
10 Accessibility, Transparency and Accountability Act of
11 2013; clarifying statutory language; deleting certain
12 restriction to access student data; prohibiting the
13 linking of certain individual student data with other
14 data; prohibiting certain storage of student data;
15 prohibiting the connection of software and
16 applications on certain devices which allows for the
17 sharing of information; requiring school districts to
18 obtain an annual consent form regarding the release
19 of individual student data; requiring school
20 districts to retain a signed copy; prohibiting the
21 State Board of Education from entering into certain
22 agreements or consortiums; prohibiting the Board from
23 using certain funds for the statewide longitudinal
24 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.

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

22 SECTION 1. AMENDATORY Section 1, Chapter 356, O.S.L.
23 2013 (70 O.S. Supp. 2013, Section 3-168), is amended to read as
24 follows:

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

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

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

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

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

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

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

15 6. "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 7. "Student data" means data collected and/or reported at the
19 individual student level included in a student's educational record.

20 a. "Student data" includes:

21 (1) state and national assessment results, including
22 information on untested public school students,

23 (2) course taking and completion, credits earned, and
24 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.

1 C. The State Board of Education shall:

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

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

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

12 c. any individual student data that the State Department
13 of Education collects or maintains with no current
14 purpose or reason;

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

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

21 (1) the authorized staff of the State Department of
22 Education and the Department's contractors who
23 require such access to perform their assigned
24 duties, including staff and contractors from the

1 Information Services Division of the Office of
2 Management and Enterprise Services assigned to
3 the Department,

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

7 (3) students and their parents, ~~and~~

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

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

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

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

23 (2) unless otherwise approved by the State Board of
24 Education to release student or de-identified

1 data in specific instances, the Department may
2 only use aggregate data in the release of data in
3 response to research and data requests, and

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

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

- 12 a. a student transfers out of state or a school/district
13 seeks help with locating an out-of-state transfer,
14 b. a student leaves the state to attend an out-of-state
15 institution of higher education or training program,
16 c. a student registers for or takes a national or
17 multistate assessment,
18 d. a student voluntarily participates in a program for
19 which such a data transfer is a condition/requirement
20 of participation,
21 e. the Department enters into a contract that governs
22 databases, assessments, special education or
23 instructional supports with an out-of-state vendor, or
24

1 f. a student is classified as "migrant" for federal
2 reporting purposes;

3 4. Develop a detailed data security plan that includes:

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

11 5. Ensure routine and ongoing compliance by the State

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

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

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

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

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

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

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

18 c. an explanation of any exceptions granted by the State
19 Board of Education in the past year regarding the
20 release or out-of-state transfer of student or de-
21 identified data, and

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

24 Notifications regarding privacy compliance and

1 security audits shall not include any information that
2 would itself pose a security threat to the state or
3 local student information systems or to the secure
4 transmission of data between state and local systems
5 by exposing vulnerabilities.

6 D. The State Board of Education, the State Department of
7 Education and school districts shall:

8 1. Not link individual student data collected on a student in
9 early childhood education with data collected on that individual
10 student during kindergarten through twelfth grade and with data
11 collected on that individual student at the postsecondary or
12 workforce level;

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

16 3. Not link individual student data collected on a student in
17 early childhood education or during kindergarten through twelfth
18 grade with any state agency data outside the State Department of
19 Education;

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

23 5. Prevent individual student data from being collected via
24 digital software or interactive application on any electronic device

1 which has been provided to a student or is used by a student for
2 educational purposes inside a public school that could be shared
3 with a vendor or organization that is independent of the State
4 Department of Education.

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

14 2. School districts shall retain a copy of each signed consent
15 form.

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

19 ~~E.~~ G. Upon the effective date of ~~this act~~ the Student Data
20 Accessibility, Transparency and Accountability Act of 2013, any
21 existing collection of student data by the State Department of
22 Education shall not be considered a new student data collection in
23 accordance with subparagraph a of paragraph 7 of subsection C of
24 this section.

1 ~~F. H.~~ H. Nothing in ~~this act~~ the Student Data Accessibility,
2 Transparency and Accountability Act of 2013 shall interfere with the
3 State Department of Education's compliance with the Educational
4 Accountability Reform Act.

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

8 In order to prohibit the federal government from improperly
9 inserting itself into the clearly established right of the state to
10 educate the citizens of the state, to safeguard against any threat
11 of federal intrusion into the development and implementation of the
12 state academic standards and to guarantee the implementation of good
13 public policy:

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

17 2. The State Board of Education shall not use federal funds,
18 enter into any agreement for federal funds or use private funds
19 collected or dispersed from outside of the state to further the
20 construction, enhancement or expansion of any statewide longitudinal
21 data system or to comply with the provisions of Executive Order
22 2013-40 issued by the Governor on December 4, 2013;

23 3. No official, agent, agency or board of the state shall enter
24 into agreement or contract with any federal agency or private entity

1 which in any way cedes state discretion or control over academic
2 content standards, teaching standards, student assessment or student
3 data collection and use in the public school system, including but
4 not limited to agreements and contracts related to funding for
5 public schools and school programs; and

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

15 SECTION 3. This act shall become effective November 1, 2014.
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1 Passed the House of Representatives the 5th day of March, 2014.

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4 Presiding Officer of the House
of Representatives

5 Passed the Senate the ____ day of _____, 2014.

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8 Presiding Officer of the Senate