

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 55th Legislature (2015)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2049

By: Nelson

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8 COMMITTEE SUBSTITUTE

9 An Act relating to schools; amending Section 1,
10 Chapter 356, O.S.L. 2013 (70 O.S. Supp. 2014, Section
11 3-168), which relates to the Student Data
12 Accessibility, Transparency and Accountability Act of
13 2013; clarifying statutory language; making certain
14 entities subject to restriction on transferring
15 certain student data to certain entities; requiring
16 school districts to obtain parental consent prior to
17 students creating certain accounts or using certain
18 websites; and providing an effective date.

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

25 SECTION 1. AMENDATORY Section 1, Chapter 356, O.S.L.
26 2013 (70 O.S. Supp. 2014, Section 3-168), is amended to read as
27 follows:

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

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

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

6. "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

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

a. "Student data" includes:

- (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

1 individual student data fields currently in the student data system
2 including:

- 3 a. any individual student data required to be reported by
4 state and federal education mandates,
- 5 b. any individual student data which has been proposed
6 for inclusion in the student data system with a
7 statement regarding the purpose or reason for the
8 proposed collection, and
- 9 c. any individual student data that the State Department
10 of Education collects or maintains with no current
11 purpose or reason;

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

- 16 a. access to student and de-identified data in the
17 student data system shall be restricted to:
 - 18 (1) the authorized staff of the State Department of
19 Education and the Department's contractors who
20 require such access to perform their assigned
21 duties, including staff and contractors from the
22 Information Services Division of the Office of
23 Management and Enterprise Services assigned to
24 the Department,

- 1 (2) district administrators, teachers and school
2 personnel who require such access to perform
3 their assigned duties,
4 (3) students and their parents, and
5 (4) the authorized staff of other state agencies in
6 Oklahoma as required by law and/or defined by
7 interagency data-sharing agreements,

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

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

16 (1) unless otherwise approved by the State Board of
17 Education, student data maintained by the State
18 Department of Education shall remain
19 confidential, and

20 (2) unless otherwise approved by the State Board of
21 Education to release student or de-identified
22 data in specific instances, the Department may
23 only use aggregate data in the release of data in
24 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, a school district and any agent or vendor of the Department or a school district 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 or school district enters into a contract that governs databases, assessments, special education or instructional supports with an out-of-state vendor, or

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

9 E. Upon the effective date of ~~this act~~ the Student Data
10 Accessibility, Transparency and Accountability Act of 2013, any
11 existing collection of student data by the State Department of
12 Education shall not be considered a new student data collection in
13 accordance with subparagraph a of paragraph 7 of subsection C of
14 this section.

15 F. Nothing in ~~this act~~ the Student Data Accessibility,
16 Transparency and Accountability Act of 2013 shall interfere with the
17 State Department of Education's compliance with the Educational
18 Accountability Reform Act.

19 SECTION 2. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 3-169 of Title 70, unless there
21 is created a duplication in numbering, reads as follows:

22 School districts shall be required to obtain a signed written
23 consent form from the parent or guardian of a student prior to
24 requiring the student to:

1 1. Create an individual student-based web account, email
2 account, text account, instant message account or chatroom account
3 which requires the student to enter or reveal individually
4 identifiable information; or

5 2. Sign onto or view a website or web-based application or site
6 that requires a student-specific login and the student to enter or
7 reveal individually identifiable information.

8 SECTION 3. This act shall become effective November 1, 2015.

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10 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 02/25/2015 - DO PASS,
As Amended.