

1 ENGROSSED SENATE AMENDMENT
TO
2 ENGROSSED HOUSE
BILL NO. 2049

By: Nelson of the House
and
Treat of the Senate

[schools - Student Data Accessibility, Transparency
and Accountability Act of 2013 - clarifying
statutory language - effective date]

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AUTHOR: Add the following House Coauthor: Brumbaugh
AMENDMENT NO. 1. Page 1, strike the enacting clause.

Passed the Senate the 21st day of April, 2015.

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____,
2015.

Presiding Officer of the House
of Representatives

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8 and Accountability Act of 2013 - clarifying
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12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. AMENDATORY Section 1, Chapter 356, O.S.L.
14 2013 (70 O.S. Supp. 2014, Section 3-168), is amended to read as
15 follows:

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

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

- 21 1. "Board" means the State Board of Education;
22 2. "Department" means the State Department of Education;
23 3. "Data system" means the Oklahoma State Department of
24 Education student data system;

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

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

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

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

11 a. "Student data" includes:

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

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- (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,

1 b. any individual student data which has been proposed
2 for inclusion in the student data system with a
3 statement regarding the purpose or reason for the
4 proposed collection, and

5 c. any individual student data that the State Department
6 of Education collects or maintains with no current
7 purpose or reason;

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

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

14 (1) the authorized staff of the State Department of
15 Education and the Department's contractors who
16 require such access to perform their assigned
17 duties, including staff and contractors from the
18 Information Services Division of the Office of
19 Management and Enterprise Services assigned to
20 the Department,

21 (2) district administrators, teachers and school
22 personnel who require such access to perform
23 their assigned duties,

24 (3) students and their parents, and

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

4 b. the State Department of Education shall use only
5 aggregate data in public reports or in response to
6 record requests in accordance with paragraph 3 of this
7 subsection,

8 c. the State Department of Education shall develop
9 criteria for the approval of research and data
10 requests from state and local agencies, the State
11 Legislature, researchers and the public:

12 (1) unless otherwise approved by the State Board of
13 Education, student data maintained by the State
14 Department of Education shall remain
15 confidential, and

16 (2) unless otherwise approved by the State Board of
17 Education to release student or de-identified
18 data in specific instances, the Department may
19 only use aggregate data in the release of data in
20 response to research and data requests, and

21 d. notification to students and parents regarding their
22 rights under federal and state law;

23 3. Unless otherwise approved by the State Board of Education,
24 the State Department of Education, a school district and any agent

1 or vendor of the Department or a school district shall not transfer
2 student or de-identified data deemed confidential under division (1)
3 of subparagraph c of paragraph 2 of this subsection ~~of this~~
4 ~~section~~ to any federal, state or local agency or other
5 organization/entity outside of the State of Oklahoma, with the
6 following exceptions:

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

22 4. Develop a detailed data security plan that includes:
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- 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

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

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

- (1) any new student data collection proposed by the State Board of Education becomes a provisional requirement to allow districts and their local

1 data system vendors the opportunity to meet the
2 new requirement, and

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

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

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

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

21 Notifications regarding privacy compliance and
22 security audits shall not include any information that
23 would itself pose a security threat to the state or
24 local student information systems or to the secure

1 transmission of data between state and local systems
2 by exposing vulnerabilities.

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

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

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

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

19 School districts shall be required to obtain a signed written
20 consent form from the parent or guardian of a student prior to
21 requiring the student to:

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

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

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

7 Passed the House of Representatives the 5th day of March, 2015.

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Presiding Officer of the House
of Representatives

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Passed the Senate the ____ day of _____, 2015.

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Presiding Officer of the Senate

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