

SENATE FILE NO. SF0034

Student Personal Digital Information Protection Act.

Sponsored by: Joint Education Interim Committee

A BILL

for

1 AN ACT relating to public education; prohibiting internet
2 or online service providers from using, disclosing or
3 compiling student data as specified; providing exceptions;
4 imposing duties; specifying applicability; providing
5 definitions; and providing for an effective date.

6

7 *Be It Enacted by the Legislature of the State of Wyoming:*

8

9 **Section 1.** W.S. 21-25-101 through 21-25-106 are
10 created to read:

11

12 CHAPTER 25

13 STUDENT PERSONAL DIGITAL INFORMATION PROTECTION ACT

14

15 **21-25-101. Short title.**

16

1 This act shall be known and may be cited as the "Student
2 Personal Digital Information Protection Act."

3

4 **21-25-102. Definitions.**

5

6 (a) As used in this act:

7

8 (i) "Preschool through grade twelve (12)
9 purposes" means activities that take place at the direction
10 of an employee or agent of a public school, school district
11 or program provider or that aid in the administration of
12 activities at the public school or program including, but
13 not limited to instruction in the classroom, administrative
14 activities, preparing for postsecondary education or
15 employment opportunities, collaboration between students,
16 school personnel or parents or that are for the use and
17 benefit of the public school, school district or program;

18

19 (ii) "Program" includes services for students in
20 preschool through grade twelve (12) which are primarily
21 publicly funded including developmental preschool, child
22 care and cooperative education programs;

23

1 (iii) "Operator" means any entity other than the
2 state department of education, a school district, public
3 school or program provider to the extent that the entity:

4
5 (A) Operates a website, software, service
6 or application with actual knowledge the website, software,
7 service or application is used for preschool through grade
8 twelve (12) purposes and was designed and marketed for
9 preschool through grade twelve (12) purposes; and

10
11 (B) In operating the website, software,
12 service or application for those purposes collects,
13 maintains or uses student data in a digital or electronic
14 format.

15
16 (iv) "Student data" means any personally
17 identifiable information of a student in preschool through
18 grade twelve (12) who is enrolled in a Wyoming public
19 school or program that is collected and maintained at the
20 individual student level in the state by an employee or
21 agent of the state department of education, school
22 district, public school, program provider or by an
23 operator, including but not limited to information that is:

1

2 (A) Created or provided by a student or the
3 student's parent or legal guardian to an employee or agent
4 of the state department of education, school district,
5 public school, program provider or to an operator in the
6 course of the student's or the student's parent's or legal
7 guardian's use of the operator's site, software, service or
8 application for preschool through grade twelve (12)
9 purposes;

10

11 (B) Created or provided by an employee or
12 agent of the school district, public school or program
13 provider, including to an operator in the course of the
14 employee's or agent's use of the operator's site, software,
15 service or application for preschool through grade twelve
16 (12) purposes; or

17

18 (C) Gathered by an operator through a site,
19 software, service or application for preschool through
20 grade twelve (12) purposes and identifies a student,
21 including but not limited to information in the student's
22 educational record or email, first and last name, home
23 address, telephone number, email address or other

1 information that allows physical or online contact,
2 discipline records, test results, special education data,
3 juvenile delinquency records, grades, evaluations, criminal
4 records, medical records, health records, social security
5 number, biometric information, disabilities, socioeconomic
6 information, food purchases, political affiliations,
7 religious information, text messages, documents, student
8 identifiers, search activity, photos, voice recordings or
9 geolocation information.

10

11 (v) "Targeted advertising" means presenting
12 advertisements to a student where the advertisement is
13 selected based on information obtained or inferred from the
14 student's online behavior, usage of applications or student
15 data. "Targeted advertising" does not include
16 advertisements presented to a student where the
17 advertisement is selected based upon the student's current
18 visit to or single search query on a site, software,
19 service or application;

20

21 (vi) "This act" means W.S. 21-25-101 through
22 21-25-106.

23

1 **21-25-103. Acts by operators; prohibitions.**

2

3 (a) An operator shall not knowingly engage in any of
4 the following activities without verifiable written or
5 electronic consent from the student, if emancipated or
6 eighteen (18) years of age or older, or the student's
7 parent or legal guardian, if the student is an
8 unemancipated minor:

9

10 (i) Use or gather for future use student data to
11 engage in behaviorally targeted advertising on the
12 operator's site, software, service or application or target
13 advertising on any other site, software, service or
14 application when the targeting of the advertising is based
15 upon information, including student data, state-assigned
16 student identifiers or other persistent unique identifiers,
17 that the operator has acquired because of the use of the
18 operator's site, software, service or application;

19

20 (ii) Use information, including state-assigned
21 student identifiers or other persistent unique identifiers,
22 created or gathered by the operator's site, software,
23 service or application to amass a profile about a student

1 except in furtherance of preschool through grade twelve
2 (12) purposes. For purposes of this paragraph, "amass a
3 profile" does not include the collection and retention of
4 account information that remains under the control of the
5 student, parent, public school, school district or program
6 provider;

7

8 (iii) Sell or trade student data. This
9 prohibition does not apply to the purchase, merger or other
10 type of acquisition of an operator by another entity,
11 provided the operator or successor entity continues to be
12 subject to the provisions of this act with respect to
13 previously acquired student data; or

14

15 (iv) Except as provided in W.S. 21-25-104(a),
16 disclose student data.

17

18 **21-25-104. Acts by operators; exceptions.**

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20 (a) An operator may use or disclose student data
21 without explicit consent required under this act if the use
22 or disclosure is made:

23

1 (i) In furtherance of the preschool through
2 grade twelve (12) purposes of the operator's site,
3 software, service or application, provided that the
4 operator shall:

5

6 (A) Prohibit the recipient of the student
7 data from further disclosing the student data except to
8 allow or improve the operability and functionality within
9 that student's classroom, public school or program; and

10

11 (B) Require the recipient of the student
12 data to comply with the requirements of this act and not
13 use the student data in violation of this act.

14

15 (ii) To comply with federal or state law that
16 requires the operator to disclose the student data and the
17 operator complies with applicable requirements of federal
18 and state law in protecting and disclosing that data;

19

20 (iii) To respond to or participate in judicial
21 process;

22

1 (iv) To protect the safety, security and
2 integrity of the operator's site, software, service or
3 application and any other users of the site, software,
4 service or application;

5

6 (v) To a service provider, provided that the
7 operator shall:

8

9 (A) Prohibit the service provider from
10 using any student data for any purpose other than providing
11 the contracted service to, or on behalf of, the operator;

12

13 (B) Require the service provider to impose
14 the same restrictions in this paragraph on its own service
15 providers; and

16

17 (C) Require the service provider to
18 implement and maintain reasonable security procedures and
19 practices as provided in W.S. 21-25-105.

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21 (vi) For an educational, public health or
22 employment purpose requested by the student, if emancipated
23 or eighteen (18) years of age or older, or the student's

1 parent or legal guardian, if the student is an
2 unemancipated minor, provided that the student data is not
3 otherwise used or further disclosed by the operator for any
4 purpose;

5

6 (vii) For legitimate research purposes:

7

8 (A) Required by federal or state law and
9 subject to the restrictions under applicable federal and
10 state law; or

11

12 (B) Allowed by federal or state law and
13 under the direction of the state department of education,
14 school district, public school or program provider.

15

16 (viii) To a state agency, school district,
17 public school or program provider for preschool through
18 grade twelve (12) purposes, as permitted by federal or
19 state law.

20

21 (b) Nothing in this act prohibits an operator from
22 using student data under the following circumstances:

23

1 (i) For maintaining, delivering, developing,
2 supporting, evaluating, improving or diagnosing the
3 operator's site, software, service or application;

4
5 (ii) For adaptive learning or customized student
6 learning purposes;

7
8 (iii) For recommending additional content or
9 services related to an educational, learning or employment
10 opportunity to students within a public school service's or
11 program service's site, software, service or application,
12 provided that the recommendation is not determined in whole
13 or in part by payment or other consideration from a third
14 party;

15
16 (iv) To respond to a student's search query or
17 request for information or feedback, provided that the
18 response is not determined in whole or in part by payment
19 or other consideration from a third party;

20
21 (v) To ensure legal or regulatory compliance or
22 by retaining student data for legal or regulatory
23 compliance; or

1 (vi) To identify for the student institutions of
2 higher education or scholarship providers that are seeking
3 students who meet specific criteria, regardless of whether
4 the identified institutions of higher education or
5 scholarship providers provide payment or other
6 consideration to the operator.

7
8 **21-25-105. Duties of operators.**

9
10 (a) An operator shall:

11
12 (i) Implement and maintain reasonable security
13 procedures and privacy practices appropriate to the nature
14 of the student data to protect the data from unauthorized
15 access, destruction, use, modification or disclosure; and

16
17 (ii) Certify the deletion of student data within
18 a reasonable time not to exceed ninety (90) days if the
19 school district, public school or program provider having
20 control of the data requests deletion.

21
22 **21-25-106. Applicability; limitations of duties.**

23

1 (a) This act shall not be construed to limit the
2 authority of a law enforcement agency to obtain any content
3 or student data from an operator as authorized by law or
4 pursuant to an order of a court of competent jurisdiction.

5

6 (b) This act shall not apply to internet websites,
7 online services, online applications or mobile applications
8 used, designed and marketed for purposes other than
9 preschool through grade twelve (12) purposes.

10

11 (c) This act shall not be construed to limit internet
12 service providers from providing internet connectivity to
13 school districts, public schools, program providers or
14 students and their families.

15

16 (d) This act shall not be construed to prohibit an
17 operator from marketing educational products directly to a
18 student's parent so long as the marketing did not result
19 from the use of student data obtained without parental
20 consent by the operator through the provision of services
21 covered under this act.

22

1 (e) This act shall not be construed to impose a duty
2 upon a provider of an electronic store, gateway,
3 marketplace or other means of purchasing or downloading
4 software or applications to review or enforce compliance of
5 this act on those applications or software.

6

7 (f) This act shall not be construed to impose a duty
8 upon a provider of an interactive computer service, as
9 defined in section 230 of title 47 of the United States
10 Code, to review or enforce compliance with this act by
11 third-party content providers.

12

13 (g) This act shall not be construed to impede the
14 ability of a student or a student's parent or legal
15 guardian to download, transfer or otherwise save or
16 maintain the student's or the student's parent's or legal
17 guardian's own student data or documents.

18

19 (h) Nothing in this act shall prevent the state
20 department of education, a school district, a program
21 provider or an employee or agent thereof from recommending,
22 directly or by a product or service, any educational
23 materials, online content, services or other products to a

1 student or the student's family if the department, school
2 district or program provider determines that the products
3 will benefit the student and the department, district,
4 program provider or employee or agent thereof does not
5 receive compensation for developing, enabling or
6 communicating the recommendations.

7

8 **Section 2.** This act is effective July 1, 2017.

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(END)