STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

HOUSE BILL 1104   By: Vancuren

AS INTRODUCED

An Act relating to schools; amending Section 1,
Chapter 356, O.S.L. 2013, as amended by Section 1,
Chapter 33, O.S.L. 2015 (70 O.S. Supp. 2020, Section
3-168), which relates to the Student Data
Accessibility, Transparency and Accountability Act of
2013; and modifying definition of student data to
include tribal affiliation and certain data related
to American Indian heritage.

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

SECTION 1.   AMENDATORY   Section 1, Chapter 356, O.S.L.

2013, as amended by Section 1, Chapter 33, O.S.L. 2015 (70 O.S.

Supp. 2020, Section 3-168), is amended to read as follows:

Section 3-168. A. This section shall be known and may be cited

as the "Student Data Accessibility, Transparency and Accountability

Act of 2013".

B. As used in this act:

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;

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;

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~~ dropout

22   data,

23   (6)   attendance and mobility,

24

(7)   data required to calculate the federal four-year

adjusted cohort graduation rate, including

sufficient exit and ~~drop-out~~ dropout information,

(8)   discipline reports limited to objective

information sufficient to produce the federal

Title IV Annual Incident Report,

(9)   remediation,

(10)   special education data,

(11)   demographic data and program participation

information, including tribal affiliation and

other data associated with students who have been

identified as having American Indian heritage,

and

(12)   military student identifier.

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; and

8.   "Military student identifier" means a unique identifier for

each student whose parent or guardian is a member of the Armed

Forces of the United States, a reserve component of the Armed Forces

1 of the United States or the National Guard which will allow for the

2 disaggregation of each category.

3   C. The State Board of Education shall:

4   1. Create, publish and make publicly available a data inventory

5 and dictionary or index of data elements with definitions of

6 individual student data fields currently in the student data system

7 including:

8   a.   any individual student data required to be reported by

9   state and federal education mandates,

10   b.   any individual student data which has been proposed

11   for inclusion in the student data system with a

12   statement regarding the purpose or reason for the

13   proposed collection, and

14   c.   any individual student data that the State Department

15   of Education collects or maintains with no current

16   purpose or reason;

17   2. Develop, publish and make publicly available policies and

18 procedures to comply with the federal Family Educational Rights and

19 Privacy Act (FERPA) and other relevant privacy laws and policies,

20 including but not limited to:

21   a.   access to student and de-identified data in the

22   student data system shall be restricted to:

23   (1) the authorized staff of the State Department of

24   Education and the Department's contractors who

1   require such access to perform their assigned

2   duties, including staff and contractors from the

3   Information Services Division of the Office of

4   Management and Enterprise Services assigned to

5   the Department,

6   (2) district administrators, teachers and school

7   personnel who require such access to perform

8   their assigned duties,

9   (3) students and their parents, and

10   (4) the authorized staff of other state agencies in

11   Oklahoma as required by law and/or defined by

12   interagency data-sharing agreements,

13   b. the State Department of Education shall use only

14   aggregate data in public reports or in response to

15   record requests in accordance with paragraph 3 of this

16   subsection,

17   c. the State Department of Education shall develop

18   criteria for the approval of research and data

19   requests from state and local agencies, the State

20   Legislature, researchers and the public:

21   (1) unless otherwise approved by the State Board of

22   Education, student data maintained by the State

23   Department of Education shall remain

24   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 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,

1   e. the Department enters into a contract that governs

2   databases, assessments, special education or

3   instructional supports with an out-of-state vendor,

4   f. a student is classified as "migrant" for federal

5   reporting purposes, or

6   g. a student with a military student identifier for

7   purposes of assisting the Department of Defense in

8   developing policy and military child education

9   initiatives;

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

11   a. guidelines for authorizing access to the student data

12   system and to individual student data including

13   guidelines for authentication of authorized access,

14   b. privacy compliance standards,

15   c. privacy and security audits,

16   d. breach planning, notification and procedures, and

17   e. data retention and disposition policies;

18 5. Ensure routine and ongoing compliance by the State

19 Department of Education with FERPA, other relevant privacy laws and

20 policies, and the privacy and security policies and procedures

21 developed under the authority of this act, including the performance

22 of compliance audits;

23 6. Ensure that any contracts that govern databases, assessments

24 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;

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

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

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

c.   an explanation of any exceptions granted by the State

Board of Education in the past year regarding the

release or out-of-state transfer of student or de-

identified data, and

d.   the results of any and all privacy compliance and

security audits completed in the past year.

Notifications regarding privacy compliance and

security audits shall not include any information that

would itself pose a security threat to the state or

local student information systems or to the secure

transmission of data between state and local systems

by exposing vulnerabilities; and

8.   By July 1, 2016, include a military student identifier in

the state student data system.

D.   The State Board of Education shall adopt rules for the State

Department of Education to implement the provisions of the Student

Data Accessibility, Transparency and Accountability Act of 2013.

E.   Upon the effective date of this act, any existing collection

of student data by the State Department of Education and the

addition of a military student identifier to the student data

collected by the Department after the effective date of this act

shall not be considered a new student data collection in accordance

with subparagraph a of paragraph 7 of subsection C of this section.

1   F.   Nothing in this act shall interfere with the State

2 Department of Education's compliance with the Educational

3 Accountability Reform Act.

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