

First Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 15-0279.02 Jane Ritter x4342

SENATE BILL 15-173

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SENATE SPONSORSHIP

Holbert,

HOUSE SPONSORSHIP

Pabon,

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Senate Committees  
Education

House Committees

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A BILL FOR AN ACT

101 CONCERNING EXPANDING PROTECTIONS FOR STUDENT DATA SECURITY.

Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

The bill adds additional protections to existing law concerning student data privacy and transparency. A vendor is defined as an operator of a web site, on-line service, on-line application, or mobile application (site or service) with knowledge that the site or service is used primarily for public school purposes and was designed and marketed for public school purposes.

The bill prohibits vendors from:

! Engaging in targeted advertising if the targeting is based

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

upon any student information acquired because of the use of a vendor's site or service;

- ! Using information acquired through the site or service to create a profile of a student that is not in furtherance of a public school purpose;
- ! Selling a student's information; and
- ! Disclosing covered student information unless specific requirements are met.

The bill allows vendors to:

- ! Implement and maintain reasonable security procedures and practices;
- ! Delete a student's data at the request of the school or school district with control of the data;
- ! Disclose covered student information if required by state or federal law;
- ! Disclose covered student information for legitimate research purposes, provided applicable requirements of state and federal law are met;
- ! Disclose deidentified covered student information in order to improve the vendor's sites or services or other educational products or for marketing uses.

The bill does not:

- ! Limit the authority of law enforcement to access any information allowed by law or authorized by a court order;
- ! Apply to general audience sites and services or to internet service providers in the course of providing internet connectivity;
- ! Prohibit a vendor from marketing its product or services, provided the marketing did not result from the use of covered student information obtained by the vendor in violation of the bill;
- ! Impose duties on electronic stores, gateways, marketplaces, or other means of purchasing or downloading software or applications; or
- ! Impede the ability of a student to download, export, or otherwise save or maintain his or her own student-created data or documents.

The bill moves existing law related to parental written consent for obtaining and releasing data to part 3 of article 2 of title 22, C.R.S., along with other relevant law related to student data.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 22-2-301 as

1 follows:

2 **22-2-301. Short title.** This part 3 shall be known and may be cited  
3 as the "Data Reporting and ~~Technology~~ PROTECTION Act".

4 **SECTION 2.** In Colorado Revised Statutes, 22-2-302, **amend** (1)  
5 introductory portion; and **add** (1) (f), (2) (f), and (2) (g) as follows:

6 **22-2-302. Legislative declaration.** (1) The general assembly  
7 ~~hereby~~ finds that:

8 (f) ALTHOUGH THERE ARE FEDERAL STATUTES LIMITING THE USE  
9 OF STUDENT DATA COLLECTED BY SCHOOLS, THESE STATUTES PRIMARILY  
10 GOVERN THE ACTIONS OF SCHOOLS AND GOVERNMENT ENTITIES AND HAVE  
11 LESS APPLICABILITY TO THIRD-PARTY VENDORS. THE EFFECTIVE USE OF  
12 STUDENT DATA TO IMPROVE LEARNING REQUIRES A FRAMEWORK OF TRUST  
13 AROUND ITS USE.

14 (2) It is therefore the intent of the general assembly in enacting  
15 this part 3 to achieve the following purposes:

16 (f) TO ENSURE THE PRIVACY OF ALL PUBLIC SCHOOL STUDENTS BY  
17 RESTRICTING THIRD-PARTY VENDORS FROM SHARING, MINING, SELLING, OR  
18 USING PERSONALLY IDENTIFIABLE DATA COLLECTED BY SCHOOLS AND  
19 SCHOOL DISTRICTS; AND

20 (g) TO PROHIBIT AN OPERATOR OF AN INTERNET WEB SITE, ON-LINE  
21 SERVICE, OR MOBILE APPLICATION FROM USING, DISCLOSING, OR  
22 COMPILING PERSONAL INFORMATION OF A PUBLIC SCHOOL STUDENT FOR  
23 THE PURPOSE OF MARKETING OR ADVERTISING.

24 **SECTION 3.** In Colorado Revised Statutes, **repeal and reenact,**  
25 **with amendments,** 22-2-303 as follows:

26 **22-2-303. Definitions.** AS USED IN THIS PART 3, UNLESS THE  
27 CONTEXT OTHERWISE REQUIRES:

1 (1) "AGGREGATE DATA" MEANS DATA COLLECTED AND REPORTED  
2 AT THE GROUP, COHORT, OR INSTITUTIONAL LEVEL.

3 (2) "COMMISSIONER" MEANS THE COMMISSIONER OF EDUCATION  
4 APPOINTED PURSUANT TO SECTION 1 OF ARTICLE IX OF THE STATE  
5 CONSTITUTION.

6 (3) "COVERED INFORMATION" MEANS PERSONALLY IDENTIFIABLE  
7 INFORMATION OR MATERIALS, IN ANY MEDIA OR FORMAT THAT IS:

8 (a) CREATED OR PROVIDED BY A STUDENT, OR THE STUDENT'S  
9 PARENT OR LEGAL GUARDIAN, TO A VENDOR IN THE COURSE OF THE  
10 STUDENT'S, PARENT'S, OR LEGAL GUARDIAN'S USE OF THE VENDOR'S WEB  
11 SITE, SERVICE, OR APPLICATION FOR PUBLIC SCHOOL PURPOSES;

12 (b) CREATED OR PROVIDED BY AN EMPLOYEE OR AGENT OF THE  
13 PUBLIC SCHOOL, SCHOOL DISTRICT, LOCAL EDUCATION AGENCY, OR  
14 DEPARTMENT TO A VENDOR; OR

15 (c) IS GATHERED BY A VENDOR THROUGH THE OPERATION OF A  
16 WEB SITE, SERVICE, OR APPLICATION THAT IS USED PRIMARILY FOR PUBLIC  
17 SCHOOL PURPOSES, WAS DESIGNED AND MARKETED FOR PUBLIC SCHOOL  
18 PURPOSES, AND IS DESCRIPTIVE OF OR OTHERWISE IDENTIFIES A STUDENT.

19 THIS INCLUDES, BUT IS NOT LIMITED TO:

20 (I) INFORMATION IN THE STUDENT'S EDUCATIONAL RECORD OR  
21 EMAIL;

22 (II) STUDENT DATA, AS DEFINED IN SUBSECTION (15) OF THIS  
23 SECTION;

24 (III) FIRST AND LAST NAME, HOME ADDRESS, TELEPHONE NUMBER,  
25 EMAIL ADDRESS, OR ANY OTHER INFORMATION THAT ALLOWS PHYSICAL OR  
26 ON-LINE CONTACT; OR

27 (IV) DISCIPLINE OR CRIMINAL RECORDS, JUVENILE DEPENDENCY

1 RECORDS, MEDICAL OR HEALTH RECORDS, SOCIAL SECURITY NUMBER,  
2 BIOMETRIC INFORMATION, DISABILITIES, SOCIOECONOMIC INFORMATION,  
3 POLITICAL AFFILIATIONS, RELIGIOUS INFORMATION, TEXT MESSAGES,  
4 DOCUMENTS, STUDENT IDENTIFIERS, SEARCH ACTIVITY, PHOTOS, VOICE  
5 RECORDINGS, FOOD PURCHASES, OR GEOLOCATION INFORMATION.

6 (4) "DATA DICTIONARY" MEANS AN ESSENTIAL COMPONENT OF  
7 DATA MANAGEMENT DEVELOPED AND ADOPTED BY THE STATE BOARD AND  
8 DEPARTMENT PURSUANT TO SECTION 22-2-305 THAT DEFINES ALL OF THE  
9 DATA ELEMENTS THE DEPARTMENT COLLECTS FROM SCHOOL DISTRICTS  
10 AND PUBLIC SCHOOLS AND DESCRIBES THE METHODS BY WHICH THE  
11 DEPARTMENT COLLECTS THE DATA THROUGH THE STATEWIDE DATA  
12 SYSTEM.

13 (5) "DATA SYSTEM" MEANS THE COLORADO STATE DEPARTMENT  
14 OF EDUCATION STUDENT DATA SYSTEM.

15 (6) "DEPARTMENT" MEANS THE DEPARTMENT OF EDUCATION  
16 CREATED AND EXISTING PURSUANT TO SECTION 24-1-115, C.R.S.

17 (7) "DIRECTORY INFORMATION" HAS THE SAME MEANING AS  
18 DEFINED IN THE FEDERAL "FAMILY EDUCATIONAL RIGHTS AND PRIVACY  
19 ACT OF 1974", AS AMENDED, 20 U.S.C. SEC. 1232g.

20 (8) "EDAC" MEANS THE EDUCATION DATA ADVISORY COMMITTEE  
21 CREATED PURSUANT TO SECTION 22-2-304.

22 (9) "EDUCATION RECORDS" HAS THE SAME MEANING AS DEFINED  
23 IN THE FEDERAL "FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF  
24 1974", AS AMENDED, 20 U.S.C. SEC. 1232g. "EDUCATION RECORDS"  
25 INCLUDES AN INDIVIDUALIZED EDUCATION PROGRAM.

26 (10) "PERSONALLY IDENTIFIABLE DATA" MEANS A DATASET THAT  
27 IS LINKED TO A SPECIFIC STUDENT OR THE STUDENT'S PARENT OR LEGAL

1 GUARDIAN AND THAT WOULD ALLOW A REASONABLE PERSON IN THE  
2 SCHOOL COMMUNITY WHO DOES NOT HAVE KNOWLEDGE OF THE RELEVANT  
3 CIRCUMSTANCES TO IDENTIFY THE STUDENT, PARENT, OR LEGAL  
4 GUARDIAN WITH REASONABLE CERTAINTY.

5 (11) "PUBLIC SCHOOL" MEANS A PUBLIC SCHOOL AS PROVIDED IN  
6 SECTION 22-1-101, INCLUDING A CHARTER SCHOOL AUTHORIZED BY A  
7 SCHOOL DISTRICT PURSUANT TO PART 1 OF ARTICLE 30.5 OF THIS TITLE OR  
8 AN INSTITUTE CHARTER SCHOOL AUTHORIZED BY THE STATE CHARTER  
9 SCHOOL INSTITUTE PURSUANT TO PART 5 OF ARTICLE 30.5 OF THIS TITLE.

10 (12) "PUBLIC SCHOOL PURPOSE" MEANS ANY PURPOSE THAT  
11 CUSTOMARILY TAKES PLACE AT THE DIRECTION OF THE PUBLIC SCHOOL,  
12 TEACHER, OR SCHOOL DISTRICT OR AID IN THE ADMINISTRATION OF  
13 SCHOOL ACTIVITIES, INCLUDING, BUT NOT LIMITED TO, INSTRUCTION IN  
14 THE CLASSROOM OR AT HOME, ADMINISTRATIVE ACTIVITIES, AND  
15 COLLABORATION BETWEEN STUDENTS, SCHOOL PERSONNEL, OR PARENTS,  
16 OR ANY OTHER PURPOSE THAT IS FOR THE USE AND BENEFIT OF A PUBLIC  
17 SCHOOL.

18 (13) "STATE-ASSIGNED STATEWIDE STUDENT IDENTIFIER" MEANS  
19 THE UNIQUE STUDENT IDENTIFIER ASSIGNED BY THE DEPARTMENT TO EACH  
20 STUDENT THAT MUST NEITHER BE NOR INCLUDE THE SOCIAL SECURITY  
21 NUMBER OF A STUDENT IN WHOLE OR IN SEQUENTIAL PART.

22 (14) "STATE BOARD" MEANS THE STATE BOARD OF EDUCATION  
23 CREATED AND EXISTING PURSUANT TO SECTION 1 OF ARTICLE IX OF THE  
24 STATE CONSTITUTION.

25 (15) (a) "STUDENT DATA" MEANS DATA THAT IS COLLECTED AND  
26 STORED BY THE DEPARTMENT AT THE INDIVIDUAL STUDENT LEVEL AND  
27 INCLUDED IN A STUDENT'S EDUCATIONAL RECORD.

1 (b) "STUDENT DATA" INCLUDES:

2 (I) STATE-ADMINISTERED ASSESSMENT RESULTS, INCLUDING  
3 PARTICIPATION INFORMATION;

4 (II) COURSES TAKEN AND COMPLETED, CREDITS EARNED, AND  
5 OTHER TRANSCRIPT INFORMATION;

6 (III) COURSE GRADES AND GRADE POINT AVERAGE;

7 (IV) GRADE LEVEL AND EXPECTED GRADUATION YEAR;

8 (V) DEGREE, DIPLOMA, CREDENTIAL ATTAINMENT, OR OTHER  
9 SCHOOL EXIT INFORMATION;

10 (VI) ATTENDANCE AND MOBILITY INFORMATION BETWEEN AND  
11 WITHIN COLORADO SCHOOL DISTRICTS;

12 (VII) SPECIAL EDUCATION DATA AND SPECIAL EDUCATION  
13 DISCIPLINE REPORTS LIMITED TO OBJECTIVE INFORMATION THAT IS  
14 SUFFICIENT TO PRODUCE THE FEDERAL TITLE IV ANNUAL INCIDENT  
15 REPORT;

16 (VIII) DATE OF BIRTH, FULL NAME, GENDER, RACE, AND  
17 ETHNICITY; AND

18 (IX) PROGRAM PARTICIPATION INFORMATION REQUIRED BY STATE  
19 OR FEDERAL LAW.

20 (16) "TARGETED ADVERTISING" MEANS DELIVERING  
21 ADVERTISEMENTS TO A STUDENT WHERE THE ADVERTISEMENT IS  
22 SELECTED BASED ON INFORMATION OBTAINED OR INFERRED FROM THAT  
23 STUDENT'S ONLINE VIEWING BEHAVIOR, USAGE OF APPLICATIONS, OR  
24 COVERED INFORMATION. "TARGETED ADVERTISING" DOES NOT INCLUDE  
25 USE OF SEARCH ENGINES OR RECOMMENDATION ENGINES, CONTEXTUAL  
26 ADVERTISING, RUN OF NETWORK ADVERTISING, OR ADAPTIVE OR  
27 INDIVIDUALIZED LEARNING.

1 (17) "VENDOR" MEANS ANY OPERATOR OF AN INTERNET WEB SITE;  
2 AN ON-LINE SERVICE, INCLUDING CLOUD COMPUTING SERVICES; AN  
3 ON-LINE APPLICATION; OR A MOBILE APPLICATION WITH ACTUAL  
4 KNOWLEDGE THAT THE SITE, SERVICE, OR APPLICATION IS USED PRIMARILY  
5 FOR PUBLIC SCHOOL PURPOSES AND WAS DESIGNED AND MARKETED FOR  
6 PUBLIC SCHOOL PURPOSES. "VENDOR" DOES NOT INCLUDE A SCHOOL, A  
7 SCHOOL DISTRICT, THE DEPARTMENT, OR THE STATE BOARD.

8 **SECTION 4.** In Colorado Revised Statutes, 22-2-305, **amend** (2)  
9 (a) introductory portion as follows:

10 **22-2-305. Data dictionary - legislative declaration - creation**  
11 **- contents - report.** (2) (a) The department, IN CONJUNCTION WITH THE  
12 STATE BOARD PURSUANT TO SECTION 22-2-309 (3) (a), shall develop and  
13 distribute to the school districts and public schools a data dictionary to  
14 define the data the department will collect and the methods and protocols  
15 by which school districts and public schools will submit the data. At a  
16 minimum, the data dictionary ~~shall~~ MUST include the following items:

17 **SECTION 5.** In Colorado Revised Statutes, 22-2-309, **amend** (3)  
18 (e), (3) (f) introductory portion, (3) (g), (4), and (5) (c) introductory  
19 portion; and **repeal** (2) as follows:

20 **22-2-309. Student data accessibility, transparency, and**  
21 **accountability - duties of department and board - short title - rules.**

22 (2) ~~As used in this section, unless the context otherwise requires:~~

23 (a) ~~"Aggregate data" means data collected and reported at the~~  
24 ~~group, cohort, or institutional level.~~

25 (b) ~~"Data system" means the Colorado state department of~~  
26 ~~education student data system.~~

27 (c) ~~"Personally identifiable data" means a dataset that is linked to~~



1 a specific student or the student's parent or legal guardian and that would  
2 allow a reasonable person in the school community, who does not have  
3 knowledge of the relevant circumstances, to identify the student, parent,  
4 or legal guardian with reasonable certainty.

5 (d) "State-assigned statewide student identifier" means the unique  
6 student identifier assigned by the department to each student that must  
7 neither be nor include the social security number of a student in whole or  
8 in sequential part.

9 (e) (I) "Student data" means data that is collected and stored by  
10 the department at the individual student level and included in a student's  
11 educational record.

12 (H) "Student data" includes:

13 (A) State-administered assessment results, including participation  
14 information;

15 (B) Courses taken and completed, credits earned, and other  
16 transcript information;

17 (C) Course grades and grade point average;

18 (D) Grade level and expected graduation year;

19 (E) Degree, diploma, credential attainment, or other school exit  
20 information;

21 (F) Attendance and mobility information between and within  
22 Colorado school districts;

23 (G) Special education data and special education discipline reports  
24 limited to objective information that is sufficient to produce the federal  
25 Title IV annual incident report;

26 (H) Date of birth, full name, gender, race, and ethnicity; and

27 (I) Program participation information required by state or federal

1 law.

2 (3) The state board shall:

3 (e) Ensure routine and ongoing compliance by the department  
4 with SECTION 22-2-309.5 AND WITH the federal "Family Educational  
5 Rights and Privacy Act of 1974", 20 U.S.C. sec. 1232g, other relevant  
6 privacy laws and policies, and the privacy and security policies and  
7 procedures developed under the authority of this section, including the  
8 performance of compliance audits;

9 (f) Ensure that agreements involving the disclosure of student data  
10 for research conducted on behalf of the department to develop, validate,  
11 or administer predictive tests; administer student aid programs; or  
12 improve instruction COMPLY WITH THE REQUIREMENTS OF SECTIONS  
13 22-2-309.5 AND 22-2-310 AND must:

14 (g) Develop requirements that any department contracts that affect  
15 databases, assessments, or instructional supports that include student or  
16 personally identifiable data and are outsourced to ~~private~~ vendors include  
17 express provisions that safeguard privacy and security, including  
18 specifying that ~~personally identifiable data may only be used for the~~  
19 ~~purpose specified in the contract and prohibiting further disclosure of that~~  
20 ~~data or its use for commercial purposes, and include penalties for~~  
21 ~~noncompliance~~ THE VENDOR SHALL COMPLY WITH ALL PROVISIONS OF  
22 SECTION 22-2-309.5; and

23 (4) The department shall develop a process to consider and review  
24 all outside requests for state data, other than aggregate student  
25 information already publicly available, by individuals not employed by  
26 the state who wish to conduct research using student or school system  
27 data already collected by the department. ANY SUCH USE OF DATA MUST

1 OCCUR IN COMPLIANCE WITH SECTIONS 22-2-309.5 AND 22-2-310.

2 (5) (c) Unless otherwise approved by the state board, the  
3 department shall not transfer student or personally identifiable data to a  
4 federal, state, or local agency or other entity outside of the state, except  
5 under the following circumstances, PROVIDED THE PROVISIONS OF  
6 SECTION 22-2-309.5 ARE OTHERWISE MET:

7 **SECTION 6.** In Colorado Revised Statutes, **add** 22-2-309.5 as  
8 follows:

9 **22-2-309.5. Student personal information protections -**  
10 **complaint resolution.** (1) A VENDOR SHALL NOT KNOWINGLY ENGAGE IN  
11 ANY OF THE FOLLOWING ACTIVITIES WITH RESPECT TO ITS WEB SITE,  
12 SERVICE, OR APPLICATION:

13 (a) (I) ENGAGE IN TARGETED ADVERTISING ON THE VENDOR'S WEB  
14 SITE, SERVICE, OR APPLICATION; OR

15 (II) TARGET ADVERTISING ON ANY OTHER WEB SITE, SERVICE, OR  
16 APPLICATION WHEN THE TARGETING OF THE ADVERTISING IS BASED UPON  
17 ANY INFORMATION, INCLUDING COVERED INFORMATION AND PERSISTENT  
18 UNIQUE IDENTIFIERS, THAT THE VENDOR HAS ACQUIRED BECAUSE OF THE  
19 USE OF THAT VENDOR'S WEB SITE, SERVICE, OR APPLICATION;

20 (b) USE INFORMATION, INCLUDING PERSISTENT UNIQUE  
21 IDENTIFIERS, CREATED OR GATHERED BY THE VENDOR'S WEB SITE,  
22 SERVICE, OR APPLICATION, TO AMASS A PROFILE ABOUT A PUBLIC SCHOOL  
23 STUDENT, EXCEPT IN FURTHERANCE OF A PUBLIC SCHOOL PURPOSE.  
24 AMASSING A PROFILE DOES NOT INCLUDE COLLECTION AND RETENTION OF  
25 ACCOUNT RECORDS OR INFORMATION THAT REMAINS UNDER THE CONTROL  
26 OF THE STUDENT, PARENT, SCHOOL, OR SCHOOL DISTRICT.

27 (c) SELL A STUDENT'S INFORMATION, INCLUDING COVERED

1 INFORMATION. THIS PROHIBITION DOES NOT APPLY TO THE PURCHASE,  
2 MERGER, OR OTHER TYPE OF ACQUISITION OF A VENDOR BY ANOTHER  
3 ENTITY, PROVIDED THAT THE VENDOR OR SUCCESSOR ENTITY CONTINUES  
4 TO COMPLY WITH THE PROVISIONS OF THIS SECTION CONCERNING  
5 PREVIOUSLY ACQUIRED STUDENT INFORMATION.

6 (d) DISCLOSE COVERED INFORMATION UNLESS THE DISCLOSURE IS  
7 MADE:

8 (I) IN FURTHERANCE OF THE PUBLIC PURPOSE OF THE WEB SITE,  
9 SERVICE, OR APPLICATION, PROVIDED THE RECIPIENT OF THE COVERED  
10 INFORMATION DISCLOSED PURSUANT TO THIS PARAGRAPH (d):

11 (A) DOES NOT FURTHER DISCLOSE THE COVERED INFORMATION  
12 UNLESS DONE TO ALLOW OR IMPROVE OPERABILITY AND FUNCTIONALITY  
13 WITHIN THAT STUDENT'S CLASSROOM OR SCHOOL; AND

14 (B) IS LEGALLY REQUIRED TO COMPLY WITH SUBSECTION (3) OF  
15 THIS SECTION;

16 (II) TO ENSURE LEGAL AND REGULATORY COMPLIANCE;

17 (III) TO RESPOND TO OR PARTICIPATE IN A JUDICIAL PROCESS;

18 (IV) TO PROTECT THE SAFETY OF USERS OR OTHERS OR THE  
19 SECURITY OF THE WEB SITE, SERVICE, OR APPLICATION; OR

20 (V) TO A SERVICE PROVIDER, PROVIDED THAT THE VENDOR  
21 CONTRACTUALLY:

22 (A) PROHIBITS THE SERVICE PROVIDER FROM USING ANY COVERED  
23 INFORMATION FOR ANY PURPOSE OTHER THAN PROVIDING THE  
24 CONTRACTED SERVICE TO, OR ON BEHALF OF, THE VENDOR;

25 (B) PROHIBITS THE SERVICE PROVIDER FROM DISCLOSING ANY  
26 COVERED INFORMATION PROVIDED BY THE VENDOR WITH SUBSEQUENT  
27 THIRD PARTIES; AND

1 (C) REQUIRES THE SERVICE PROVIDER TO IMPLEMENT AND  
2 MAINTAIN REASONABLE SECURITY PROCEDURES AND PRACTICES AS  
3 PROVIDED FOR IN SUBSECTION (3) OF THIS SECTION.

4 (2) NOTHING IN SUBSECTION (1) OF THIS SECTION SHALL BE  
5 CONSTRUED TO PROHIBIT THE VENDOR'S USE OF INFORMATION FOR  
6 MAINTAINING, DEVELOPING, SUPPORTING, IMPROVING, OR DIAGNOSING THE  
7 VENDOR'S WEB SITE, SERVICE, OR APPLICATION.

8 (3) A VENDOR SHALL:

9 (a) IMPLEMENT AND MAINTAIN REASONABLE SECURITY  
10 PROCEDURES AND PRACTICES THAT, AT A MINIMUM, MEET THE  
11 REQUIREMENTS DEVELOPED BY THE DEPARTMENT AND STATE BOARD  
12 PURSUANT TO SECTION 22-2-309 AND THAT ARE APPROPRIATE TO THE  
13 NATURE OF THE COVERED INFORMATION AND PROTECT THAT INFORMATION  
14 FROM UNAUTHORIZED ACCESS, DESTRUCTION, USE, MODIFICATION, OR  
15 DISCLOSURE;

16 (b) DELETE A STUDENT'S COVERED INFORMATION IF THE SCHOOL  
17 OR SCHOOL DISTRICT REQUESTS SUCH DELETION OF ANY DATA UNDER THE  
18 CONTROL OF THE SCHOOL OR SCHOOL DISTRICT.

19 (4) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (d) OF  
20 SUBSECTION (1) OF THIS SECTION, A VENDOR MAY DISCLOSE COVERED  
21 INFORMATION OF A STUDENT UNDER THE FOLLOWING CIRCUMSTANCES, AS  
22 LONG AS PARAGRAPHS (a) TO (c) OF SUBSECTION (1) OF THIS SECTION,  
23 INCLUSIVE, ARE NOT VIOLATED:

24 (a) IF OTHER PROVISIONS OF STATE OR FEDERAL LAW REQUIRE THE  
25 VENDOR TO DISCLOSE THE COVERED INFORMATION, AND THE VENDOR  
26 COMPLIES WITH THE APPLICABLE REQUIREMENTS OF STATE AND FEDERAL  
27 LAW IN PROTECTING AND DISCLOSING THE INFORMATION;

1 (b) FOR LEGITIMATE RESEARCH PURPOSES:

2 (I) AS REQUIRED BY STATE OR FEDERAL LAW AND SUBJECT TO THE  
3 RESTRICTIONS UNDER APPLICABLE STATE AND FEDERAL LAW; OR

4 (II) AS ALLOWED BY STATE OR FEDERAL LAW AND UNDER THE  
5 DIRECTION OF A SCHOOL, SCHOOL DISTRICT, OR THE DEPARTMENT, IF NO  
6 COVERED INFORMATION IS USED FOR ANY PURPOSE IN FURTHERANCE OF  
7 ADVERTISING OR TO AMASS A PROFILE ON A STUDENT FOR A PURPOSE  
8 OTHER THAN A PUBLIC SCHOOL PURPOSE;

9 (c) TO A STATE OR LOCAL EDUCATION AGENCY, INCLUDING  
10 SCHOOLS AND SCHOOL DISTRICTS, FOR A PUBLIC SCHOOL PURPOSE, AS  
11 PERMITTED BY STATE OR FEDERAL LAW.

12 (5) NOTHING IN THIS SECTION PROHIBITS A VENDOR FROM USING  
13 DEIDENTIFIED COVERED INFORMATION AS FOLLOWS:

14 (a) WITHIN THE VENDOR'S WEB SITE, SERVICE, OR APPLICATION, OR  
15 OTHER WEB SITES, SERVICES, OR APPLICATIONS OWNED BY THE VENDOR,  
16 TO IMPROVE ITS EDUCATIONAL PRODUCTS;

17 (b) TO DEMONSTRATE THE EFFECTIVENESS OF THE VENDOR'S  
18 PRODUCTS OR SERVICES, INCLUDING ITS MARKETING.

19 (6) NOTHING IN THIS SECTION PROHIBITS A VENDOR FROM SHARING  
20 AGGREGATED AND DEIDENTIFIED COVERED INFORMATION FOR THE  
21 DEVELOPMENT AND IMPROVEMENT OF EDUCATIONAL WEB SITES, SERVICES,  
22 OR APPLICATIONS.

23 (7) THIS SECTION DOES NOT:

24 (a) LIMIT THE AUTHORITY OF A LAW ENFORCEMENT AGENCY TO  
25 OBTAIN ANY CONTENT OR INFORMATION FROM A VENDOR AS AUTHORIZED  
26 BY LAW OR PURSUANT TO AN ORDER OF A COURT OF COMPETENT  
27 JURISDICTION;

1 (b) LIMIT THE ABILITY OF A VENDOR TO USE STUDENT DATA,  
2 INCLUDING COVERED INFORMATION, FOR ADAPTIVE LEARNING OR  
3 CUSTOMIZED STUDENT LEARNING PURPOSES;

4 (c) APPLY TO GENERAL-AUDIENCE INTERNET WEB SITES, ON-LINE  
5 SERVICES, ON-LINE APPLICATIONS, OR MOBILE APPLICATIONS, EVEN IF  
6 LOG-IN CREDENTIALS CREATED FOR A VENDOR'S WEB SITE, SERVICE, OR  
7 APPLICATION MAY BE USED TO ACCESS THE GENERAL-AUDIENCE WEB SITE,  
8 SERVICE, APPLICATION, OR MOBILE APPLICATION;

9 (d) LIMIT INTERNET SERVICE PROVIDERS FROM PROVIDING  
10 INTERNET CONNECTIVITY TO SCHOOLS OR STUDENTS AND THEIR FAMILIES;

11 (e) PROHIBIT A VENDOR OF AN INTERNET WEB SITE, ON-LINE  
12 SERVICE, ON-LINE APPLICATION, OR MOBILE APPLICATION FROM  
13 MARKETING EDUCATIONAL PRODUCTS DIRECTLY TO PARENTS, SO LONG AS  
14 THE MARKETING DID NOT RESULT FROM THE USE OF COVERED  
15 INFORMATION OBTAINED BY THE VENDOR THROUGH THE PROVISION OF  
16 SERVICES COVERED UNDER THIS SECTION;

17 (f) IMPOSE A DUTY UPON A PROVIDER OF AN ELECTRONIC STORE,  
18 GATEWAY, MARKETPLACE, OR OTHER MEANS OF PURCHASING OR  
19 DOWNLOADING SOFTWARE OR APPLICATIONS TO REVIEW OR ENFORCE  
20 COMPLIANCE OF THIS SECTION ON THOSE APPLICATIONS OR SOFTWARE;

21 (g) IMPOSE A DUTY UPON A PROVIDER OF AN INTERACTIVE  
22 COMPUTER SERVICE, AS DEFINED IN SECTION 230 OF TITLE 47, U.S.C., TO  
23 REVIEW OR ENFORCE COMPLIANCE WITH THIS SECTION BY THIRD-PARTY  
24 CONTENT PROVIDERS; AND

25 (h) IMPEDE THE ABILITY OF A STUDENT TO DOWNLOAD, EXPORT, OR  
26 OTHERWISE SAVE OR MAINTAIN HIS OR HER STUDENT-CREATED DATA OR  
27 DOCUMENTS.

1 (8) IF A PARENT OR TEACHER BELIEVES A VENDOR IS IN VIOLATION  
2 OF THIS SECTION, HE OR SHE MAY MAKE AN INITIAL REPORT TO THE  
3 DEPARTMENT. THE DEPARTMENT SHALL CONTACT THE VENDOR DIRECTLY  
4 AND PROVIDE THE VENDOR WITH THE OPPORTUNITY TO EXPLAIN OR  
5 RECTIFY. IF THE DEPARTMENT CONTINUES TO RECEIVE COMPLAINTS ABOUT  
6 THE SAME VENDOR, IT MAY BRING THE ISSUE TO THE OFFICE OF THE  
7 ATTORNEY GENERAL FOR REVIEW AND ACTION.

8 **SECTION 7.** In Colorado Revised Statutes, **add** 22-2-310 as  
9 follows:

10 **22-2-310. [Similar to 22-1-123.] Protection of student data -**  
11 **written consent requirements - rules.** (1) EXCEPT AS OTHERWISE  
12 PERMITTED IN 20 U.S.C. SEC. 1232g (b), OR ANY OTHER APPLICABLE  
13 FEDERAL LAW, A SCHOOL OR SCHOOL DISTRICT SHALL NOT RELEASE THE  
14 EDUCATION RECORDS OF A STUDENT TO ANY PERSON, AGENCY, VENDOR,  
15 OR ORGANIZATION WITHOUT THE PRIOR WRITTEN CONSENT OF THE PARENT  
16 OR LEGAL GUARDIAN OF THE STUDENT, AS SET FORTH IN THIS SECTION.  
17 ANY RELEASE OF EDUCATION RECORDS PURSUANT TO THIS SUBSECTION (1)  
18 MUST COMPLY WITH SECTION 22-2-309.5.

19 (2) A SCHOOL OR SCHOOL DISTRICT SHALL NOT RELEASE  
20 DIRECTORY INFORMATION TO ANY PERSON, AGENCY, VENDOR, OR  
21 ORGANIZATION WITHOUT FIRST COMPLYING WITH THE PROVISIONS OF 20  
22 U.S.C. SEC. 1232g (a) (5) (B) RELATED TO ALLOWING A PARENT OR LEGAL  
23 GUARDIAN TO PROHIBIT SUCH RELEASE WITHOUT PRIOR CONSENT. ANY  
24 RELEASE OF DIRECTORY INFORMATION PURSUANT TO THIS SUBSECTION (2)  
25 MUST COMPLY WITH SECTION 22-2-309.5.

26 (3) (a) A SCHOOL DISTRICT SHALL COMPLY WITH 20 U.S.C. SEC.  
27 1232h CONCERNING PROTECTION OF PUPIL RIGHTS. ANY RELEASE OF



1 DIRECTORY INFORMATION PURSUANT TO THIS SUBSECTION (3) MUST  
2 COMPLY WITH SECTION 22-2-309.5.

3 (b) A SCHOOL OR SCHOOL DISTRICT EMPLOYEE WHO SEEKS OR  
4 REQUIRES PARTICIPATION IN A SURVEY, ASSESSMENT, ANALYSIS, OR  
5 EVALUATION IN A PUBLIC SCHOOL'S CURRICULUM OR OTHER OFFICIAL  
6 SCHOOL ACTIVITY SHALL OBTAIN THE WRITTEN CONSENT OF A STUDENT'S  
7 PARENT OR LEGAL GUARDIAN PRIOR TO GIVING THE STUDENT ANY SURVEY,  
8 ASSESSMENT, ANALYSIS, OR EVALUATION THAT WILL REVEAL  
9 INFORMATION, WHETHER THE INFORMATION IS PERSONALLY IDENTIFIABLE  
10 OR NOT, CONCERNING THE STUDENT OR THE STUDENT'S PARENT'S OR  
11 LEGAL GUARDIAN'S:

- 12 (I) POLITICAL AFFILIATIONS;
- 13 (II) MENTAL AND PSYCHOLOGICAL CONDITIONS POTENTIALLY  
14 EMBARRASSING TO THE STUDENT OR THE STUDENT'S FAMILY;
- 15 (III) SEXUAL BEHAVIOR AND ATTITUDES;
- 16 (IV) ILLEGAL, ANTI-SOCIAL, SELF-INCRIMINATING, OR DEMEANING  
17 BEHAVIOR;
- 18 (V) CRITICAL APPRAISALS OF INDIVIDUALS WITH WHOM A STUDENT  
19 HAS CLOSE FAMILY RELATIONSHIPS;
- 20 (VI) LEGALLY RECOGNIZED PRIVILEGED OR ANALOGOUS  
21 RELATIONSHIPS, SUCH AS THOSE OF LAWYERS, PHYSICIANS, AND MEMBERS  
22 OF THE CLERGY;
- 23 (VII) INCOME, EXCEPT AS REQUIRED BY LAW;
- 24 (VIII) SOCIAL SECURITY NUMBER; OR
- 25 (IX) RELIGIOUS PRACTICES, AFFILIATIONS, OR BELIEFS.

26 (c) THE REQUIREMENT OF WRITTEN CONSENT PURSUANT TO THIS  
27 SUBSECTION (3) APPLIES THROUGHOUT A PUBLIC SCHOOL'S CURRICULUM

1 AND OTHER SCHOOL ACTIVITIES; EXCEPT THAT THE REQUIREMENT OF  
2 WRITTEN CONSENT DOES NOT APPLY TO A STUDENT'S PARTICIPATION IN AN  
3 ASSESSMENT ADMINISTERED PURSUANT TO SECTION 22-7-407 OR 22-7-409  
4 OR PART 10 OF ARTICLE 7 OF THIS TITLE.

5 (d) (I) IF A SCHOOL OR SCHOOL DISTRICT SENDS A FORM TO A  
6 PARENT OR LEGAL GUARDIAN REQUESTING WRITTEN CONSENT FOR THE  
7 RELEASE OF COVERED INFORMATION OR THE INFORMATION DESCRIBED IN  
8 PARAGRAPH (b) OF THIS SUBSECTION (3), OTHER THAN DIRECTORY  
9 INFORMATION, THE WRITTEN CONSENT IS VALID ONLY IF THE SCHOOL  
10 DISTRICT HAS GIVEN A PARENT OR LEGAL GUARDIAN WRITTEN NOTICE OF  
11 THE SURVEY, ASSESSMENT, ANALYSIS, OR EVALUATION, HAS MADE A COPY  
12 OF THE DOCUMENT AVAILABLE FOR VIEWING AT CONVENIENT LOCATIONS  
13 AND TIMES, AND HAS GIVEN THE PARENT OR LEGAL GUARDIAN AT LEAST  
14 TWO WEEKS, AFTER RECEIPT OF THE WRITTEN NOTICE, TO OBTAIN WRITTEN  
15 INFORMATION CONCERNING:

16 (A) RECORDS OR INFORMATION THAT MAY BE EXAMINED AND  
17 REQUESTED IN THE SURVEY, ANALYSIS, OR EVALUATION;

18 (B) THE MEANS BY WHICH THE RECORDS OR INFORMATION MAY BE  
19 EXAMINED, REVIEWED, OR DISSEMINATED;

20 (C) THE MEANS BY WHICH THE INFORMATION IS TO BE OBTAINED;

21 (D) THE PURPOSES FOR WHICH THE RECORDS OR INFORMATION IS  
22 NEEDED;

23 (E) THE ENTITIES OR PERSONS, REGARDLESS OF AFFILIATION, WHO  
24 WILL HAVE ACCESS TO THE INFORMATION; AND

25 (F) A METHOD BY WHICH A PARENT OR LEGAL GUARDIAN OF A  
26 STUDENT CAN GRANT OR DENY PERMISSION TO ACCESS OR EXAMINE THE  
27 RECORDS OR INFORMATION.

1 (II) TO BE CONSIDERED VALID WRITTEN CONSENT, THE CONSENT  
2 FORM MUST CONTAIN NOTICE TO THE PARENT OR LEGAL GUARDIAN  
3 REGARDING:

4 (A) THE SPECIFIC RECORDS TO BE RELEASED;

5 (B) THE SPECIFIC REASONS FOR SUCH RELEASE;

6 (C) THE SPECIFIC IDENTITY OF ANY PERSON, AGENCY, OR  
7 ORGANIZATION REQUESTING SUCH INFORMATION AND THE INTENDED USES  
8 OF THE INFORMATION;

9 (D) THE METHOD OR MANNER BY WHICH THE RECORDS WILL BE  
10 RELEASED; AND

11 (E) THE RIGHT TO REVIEW OR TO RECEIVE A COPY OF THE  
12 RELEVANT RECORDS TO BE RELEASED.

13 (4) IN IMPLEMENTING THIS SECTION, THE SCHOOL OR SCHOOL  
14 DISTRICT AND EMPLOYEES SHALL ENSURE THAT THEIR FIRST  
15 RESPONSIBILITY IS TO STUDENTS AND THEIR PARENTS AND SHALL ALLOW  
16 ONLY MINIMAL USE OF STUDENTS' ACADEMIC TIME BY INSTITUTIONS,  
17 AGENCIES, VENDORS, OR ORGANIZATIONS OUTSIDE THE SCHOOL OR  
18 SCHOOL DISTRICT TO GATHER INFORMATION FROM STUDENTS.

19 (5)(a) CONSENT FOR RELEASE OF INFORMATION PURSUANT TO THIS  
20 SECTION IS VALID ONLY FOR THE SPECIFIC INSTANCE FOR WHICH IT WAS  
21 GIVEN.

22 (b) A GENERAL CONSENT, WRITTEN OR OTHERWISE, FOR A STUDENT  
23 TO PARTICIPATE IN ANY COURSE OR PART OF A COURSE, IN A SCHOOL  
24 ACTIVITY, IN ANY SPECIAL EDUCATION PROGRAM, OR IN ANY OTHER  
25 SCHOOL PROGRAM DOES NOT CONSTITUTE THE WRITTEN CONSENT  
26 REQUIRED PURSUANT TO THIS SECTION.

27 (c) THE SCHOOL DISTRICT SHALL RETAIN CONSENT FORMS

1 OBTAINED PURSUANT TO THIS SECTION.

2 (6) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PREVENT:

3 (a) A PUBLIC SCHOOL EMPLOYEE FROM REPORTING KNOWN OR  
4 SUSPECTED CHILD ABUSE OR NEGLECT PURSUANT TO SECTION 19-3-304,  
5 C.R.S.;

6 (b) A HEALTH PROFESSIONAL WHO IS ACTING AS AN AGENT OF THE  
7 SCHOOL DISTRICT FROM EVALUATING AN INDIVIDUAL CHILD; AND

8 (c) A SCHOOL DISTRICT FROM ADMINISTERING A SUICIDE  
9 ASSESSMENT OR THREAT ASSESSMENT.

10 (7) ANY RIGHT ACCORDED TO A PARENT OR LEGAL GUARDIAN  
11 PURSUANT TO THIS SECTION TRANSFERS TO THE RELEVANT STUDENT WHEN  
12 THAT STUDENT ATTAINS THE AGE OF EIGHTEEN YEARS.

13 (8) EACH SCHOOL DISTRICT SHALL, AT THE BEGINNING OF EACH  
14 ACADEMIC YEAR, PROVIDE TO THE PARENT OR LEGAL GUARDIAN OF EACH  
15 STUDENT IN THE SCHOOL DISTRICT WRITTEN NOTICE OF THE RIGHTS  
16 CONTAINED IN THIS SECTION.

17 (9) THE PROVISIONS OF THIS SECTION APPLY TO ANY PUBLIC  
18 SCHOOL IN THE STATE, REGARDLESS OF WHETHER THE PUBLIC SCHOOL  
19 RECEIVES ANY FEDERAL FUNDS.

20 (10) THE STATE BOARD OF EDUCATION SHALL ADOPT SUCH RULES  
21 AS MAY BE NECESSARY TO IMPLEMENT THIS SECTION.

22 (11) IF AN INDIVIDUAL LICENSED, CERTIFIED, ENDORSED, OR  
23 AUTHORIZED BY THE STATE BOARD IS FOUND BY THE STATE BOARD TO  
24 HAVE KNOWINGLY AND INTENTIONALLY VIOLATED THE PROVISIONS OF  
25 THIS SECTION, THE DEPARTMENT OF EDUCATION MAY SUSPEND OR REVOKE  
26 SUCH INDIVIDUAL'S LICENSE, MASTER CERTIFICATE, ENDORSEMENT, OR  
27 AUTHORIZATION FOR A PERIOD NOT LESS THAN NINETY DAYS.

1           **SECTION 8.** In Colorado Revised Statutes, **add** 22-2-311 as  
2 follows:

3           **22-2-311. Parental rights - education records.** A SCHOOL  
4 DISTRICT SHALL COMPLY WITH THE PROVISIONS OF 20 U.S.C. SEC. 1232g  
5 (a) AND 34 CFR 99 IF A PARENT OR LEGAL GUARDIAN OF A STUDENT  
6 EITHER REQUESTS THE EDUCATION RECORDS OF THE STUDENT OR  
7 REQUESTS AN AMENDMENT OR OTHER CHANGE TO THE EDUCATION  
8 RECORDS AFTER REVIEWING THEM.

9           **SECTION 9.** In Colorado Revised Statutes, **amend** 22-2-106.5  
10 as follows:

11           **22-2-106.5. State board - duties with regard to student data -**  
12 **memorandum of understanding.** (1) Notwithstanding the provisions of  
13 section 22-2-111 (3) (a), the state board shall enter into a memorandum  
14 of understanding on or before September 1, 2006, with the Colorado  
15 commission on higher education to adopt a policy to share student data.  
16 At a minimum, the policy shall ensure that the exchange of information  
17 is conducted in conformance with the requirements of the federal "Family  
18 Educational Rights and Privacy Act of 1974", as amended, 20 U.S.C. sec.  
19 1232g, and all federal regulations and applicable guidelines adopted in  
20 accordance therewith. The policy shall additionally require the state  
21 board, upon request, to share student data with qualified researchers. For  
22 purposes of this section, qualified researchers ~~shall~~ include, but need not  
23 be limited to, institutions of higher education, school districts, and public  
24 policy research and advocacy organizations.

25           (2) ANY RELEASE OF DATA PURSUANT TO SUBSECTION (1) OF THIS  
26 SECTION MUST CONFORM TO THE REQUIREMENTS OF SECTION 22-2-309.5.

27           **SECTION 10.** In Colorado Revised Statutes, 22-2-111, **add** (4)

1 as follows:

2 **22-2-111. Commissioner of education - office - records -**  
3 **confidential nature.** (4) ANY RELEASE OF DATA PURSUANT TO  
4 SUBSECTION (3) OF THIS SECTION MUST CONFORM TO THE REQUIREMENTS  
5 OF SECTION 22-2-309.5.

6 **SECTION 11.** In Colorado Revised Statutes, 25-1-1202, **amend**  
7 (1) (II) as follows:

8 **25-1-1202. Index of statutory sections regarding medical**  
9 **record confidentiality and health information.** (1) Statutory provisions  
10 concerning policies, procedures, and references to the release, sharing,  
11 and use of medical records and health information include the following:

12 (II) ~~Section 22-1-123 (5)~~ SECTIONS 22-2-309.5 AND 22-2-311,  
13 C.R.S., concerning the protection of student data;

14 **SECTION 12. Act subject to petition - effective date.** This act  
15 takes effect at 12:01 a.m. on the day following the expiration of the  
16 ninety-day period after final adjournment of the general assembly (August  
17 5, 2015, if adjournment sine die is on May 6, 2015); except that, if a  
18 referendum petition is filed pursuant to section 1 (3) of article V of the  
19 state constitution against this act or an item, section, or part of this act  
20 within such period, then the act, item, section, or part will not take effect  
21 unless approved by the people at the general election to be held in  
22 November 2016 and, in such case, will take effect on the date of the  
23 official declaration of the vote thereon by the governor.