

**First Regular Session
Seventieth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 15-0236.01 Jane Ritter x4342

HOUSE BILL 15-1199

HOUSE SPONSORSHIP

Everett, Carver, Joshi, Klingenschmitt, Saine, Humphrey, Lundeen, Neville P., Nordberg, Buck, Van Winkle, Windholz

SENATE SPONSORSHIP

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House Committees
Education

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF THE "STUDENT AND TEACHER DATA**
102 **PRIVACY AND SECURITY ACT".**

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 creates the "Student and Teacher Data Privacy and Security Act" (act).

The bill classifies types of student and teacher data that may be collected by an education institution or state agency without the written consent of affected parents, eligible students, or teachers (affected parties). The types of information that require written consent from

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.

affected parties are established. An education institution is prohibited from using moneys from any source to construct, enhance, or expand a data system that is not in compliance with the provisions of the bill.

Parameters for transparency of data collection and storage for education institutions and state agencies are established, including disclosure on web sites about the existence and character of any personally identifiable information maintained, procedures to be followed in the case of a security breach or unauthorized disclosure, and the principal purpose or purposes of the data collection.

The bill establishes limitations on the administration of certain types of assessments, the collection of sensitive information about a student or his or her family, and the disclosure of personally identifiable information to third-party contractors, including those requesting the information for research and studies.

If an entity performing an audit or evaluation of an education program requests disclosure of personally identifiable information, the disclosure must be to an authorized representative only.

The bill establishes requirements for third-party contractors before they may enter into a contract with an education institution or state agency for the maintenance or use of education or teacher data, including protocols to be followed in the case of a suspected or actual security breach or unauthorized disclosure of personally identifiable information.

The bill establishes a minimum protocol for an education institution or state agency to follow in the case of a security breach or unauthorized disclosure of personally identifiable information.

The commercial use of any education or teacher data for commercial use, including use by a cloud-computing service provider performing services to an education institution or state agency, is prohibited. The use of any education or teacher data for predictive modeling is prohibited, as is any interagency disclosure. Video monitoring of classrooms for any purpose is prohibited, except for teacher evaluation purposes, and in those instances, prior written consent must be obtained from all affected parties.

Any disclosure of personally identifiable information contained in education or teacher records may not be made to any entity outside the state, except in limited circumstances. Disclosure of personally identifiable information to the United States department of education for the purposes of obtaining a federal grant is limited to specific situations required by law.

Education institutions are required to destroy and remove from student databases certain education records associated with a student within 5 years of the student's graduation or withdrawal from the institution; except that education institutions shall retain adequate records to demonstrate that a student has completed graduation requirements.

Penalties for violations of the bill are established, including a fine

of up to \$1,000 for a first offense, up to \$5,000 for a second offense, and up to \$10,000 for any subsequent offenses.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 15 to title
3 22 as follows:

4 **ARTICLE 15**
5 **Student and Teacher Data Privacy**
6 **and Security Act**

7 **22-15-101. Short title.** THIS ARTICLE IS KNOWN AND MAY BE
8 CITED AS THE "STUDENT AND TEACHER DATA PRIVACY AND SECURITY
9 ACT".

10 **22-15-102. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
11 CONTEXT OTHERWISE REQUIRES:

12 (1) "AFFECTIVE COMPUTING" MEANS SYSTEMS AND DEVICES THAT
13 ATTEMPT TO OR CAN RECOGNIZE, INTERPRET, PROCESS, OR SIMULATE
14 ASPECTS OF HUMAN FEELINGS OR EMOTIONS.

15 (2) "BIOMETRIC RECORD" MEANS A RECORD OF ONE OR MORE
16 MEASURABLE BIOLOGICAL OR BEHAVIORAL CHARACTERISTICS THAT CAN
17 BE USED FOR AUTOMATED RECOGNITION OF AN INDIVIDUAL, INCLUDING
18 FINGERPRINTS, PALM SCREENING, RETINA AND IRIS PATTERNS, VOICE
19 PRINTS, FACIAL CHARACTERISTICS, HANDWRITING, AND DNA SEQUENCES,
20 INCLUDING NEWBORN SCREENING INFORMATION. THE TERM "BIOMETRIC
21 RECORD" ALSO INCLUDES PHOTOGRAPHS, VIDEO RECORDINGS,
22 BEHAVIORAL OR PSYCHOMETRIC SURVEYS, AND OBSERVATIONS.

23 (3) "CLOUD-COMPUTING SERVICE" MEANS A SERVICE THAT
24 ENABLES ON-DEMAND NETWORK ACCESS TO A SHARED POOL OF
25 CONFIGURABLE COMPUTING RESOURCES, SUCH AS NETWORKS, SERVERS,

1 STORAGE, APPLICATIONS, AND SERVICES. A CLOUD-COMPUTING SERVICE
2 PROVIDES STUDENTS, TEACHERS, OR STAFF MEMBERS ACCOUNT-BASED
3 PRODUCTIVITY APPLICATIONS, SUCH AS E-MAIL, DOCUMENT STORAGE, AND
4 DOCUMENT EDITING, THAT CAN BE RAPIDLY PROVISIONED AND RELEASED
5 WITH MINIMAL MANAGEMENT EFFORT OR CLOUD-COMPUTING SERVICE
6 PROVIDER INTERACTION. A CLOUD-COMPUTING SERVICE HAS THE
7 CHARACTERISTICS OF ON-DEMAND SELF-SERVICE, BROAD NETWORK
8 ACCESS, RESOURCE POOLING, RAPID ELASTICITY, AND MEASURED SERVICE.

9 (4) "CLOUD-COMPUTING SERVICE PROVIDER" MEANS AN ENTITY
10 OTHER THAN AN EDUCATION INSTITUTION THAT OPERATES A
11 CLOUD-COMPUTING SERVICE.

12 (5) "DEPARTMENT" MEANS THE DEPARTMENT OF EDUCATION
13 CREATED AND EXISTING PURSUANT TO SECTION 24-1-115, C.R.S.

14 (6) "DISCLOSURE" HAS THE SAME MEANING AS SET FORTH IN THE
15 FEDERAL "FAMILY EDUCATION RIGHTS AND PRIVACY ACT", 20 U.S.C.
16 SEC. 1232g, AND ITS IMPLEMENTING REGULATIONS, 34 CFR 99.3.

17 (7) "EDUCATION INSTITUTION" OR "INSTITUTION" MEANS ANY
18 PUBLIC OR PRIVATE EARLY CHILDHOOD LEARNING CENTER, ELEMENTARY
19 OR SECONDARY SCHOOL, SCHOOL DISTRICT BOARD OF EDUCATION, OR
20 BOARD OF COOPERATIVE SERVICES.

21 (8) "EDUCATION PROGRAM" MEANS A PROGRAM OF INSTRUCTION
22 ADMINISTERED BY AN EDUCATION INSTITUTION.

23 (9) "EDUCATION RECORD" HAS THE SAME MEANING AS SET FORTH
24 IN THE FEDERAL "FAMILY EDUCATION RIGHTS AND PRIVACY ACT", 20
25 U.S.C. SEC. 1232g, AND ITS IMPLEMENTING REGULATIONS, 34 CFR 99.3.

26 (10) "ELIGIBLE STUDENT" HAS THE SAME MEANING AS SET FORTH
27 IN THE FEDERAL "FAMILY EDUCATION RIGHTS AND PRIVACY ACT", 20

1 U.S.C. SEC. 1232g, AND ITS IMPLEMENTING REGULATIONS, 34 CFR 99.3.

2 (11) "INTERPERSONAL RESOURCES" OR "INTERPERSONAL SKILLS"
3 MEANS NONCOGNITIVE, EMOTIONAL, AND PSYCHOLOGICAL
4 CHARACTERISTICS, ATTRIBUTES, AND SKILLS USED TO MANAGE
5 RELATIONSHIPS AND INTERACTIONS BETWEEN OR AMONG INDIVIDUALS.

6 (12) "INTRAPERSONAL RESOURCES" OR "INTRAPERSONAL SKILLS"
7 MEANS NONCOGNITIVE, EMOTIONAL, AND PSYCHOLOGICAL
8 CHARACTERISTICS, ATTRIBUTES, AND SKILLS USED TO MANAGE EMOTIONS
9 AND ATTITUDES WITHIN AN INDIVIDUAL.

10 (13) "PARENT" HAS THE SAME MEANING AS SET FORTH IN THE
11 FEDERAL "FAMILY EDUCATION RIGHTS AND PRIVACY ACT", 20 U.S.C.
12 SEC. 1232g, AND ITS IMPLEMENTING REGULATIONS, 34 CFR 99.3.

13 (14) "PARTY" HAS THE SAME MEANING AS SET FORTH IN THE
14 FEDERAL "FAMILY EDUCATION RIGHTS AND PRIVACY ACT", 20 U.S.C.
15 SEC. 1232g, AND ITS IMPLEMENTING REGULATIONS, 34 CFR 99.3.

16 (15) "PERSONALLY IDENTIFIABLE INFORMATION" HAS THE SAME
17 MEANING AS SET FORTH IN THE FEDERAL "FAMILY EDUCATION RIGHTS
18 AND PRIVACY ACT", 20 U.S.C. SEC. 1232g, AND ITS IMPLEMENTING
19 REGULATIONS, 34 CFR 99.3.

20 (16) "PREDICTIVE MODELING" MEANS THE USE OF EDUCATIONAL
21 DATA-MINING METHODS TO MAKE PREDICTIONS ABOUT FUTURE BEHAVIORS
22 OR PERFORMANCE.

23 (17) "PROCESS" OR "PROCESSING" MEANS TO USE, ACCESS,
24 MANIPULATE, SCAN, MODIFY, TRANSFORM, DISCLOSE, STORE, TRANSMIT,
25 TRANSFER, RETAIN, AGGREGATE, OR DISPOSE OF STUDENT OR TEACHER
26 DATA.

27 (18) "PSYCHOLOGICAL RESOURCES" MEANS NONCOGNITIVE,

1 EMOTIONAL CHARACTERISTICS, ATTRIBUTES, AND SKILLS, INCLUDING
2 MINDSETS, LEARNING STRATEGIES, AND EFFORTFUL CONTROL, USED BY AN
3 INDIVIDUAL TO ADDRESS OR MANAGE LIFE SITUATIONS.

4 (19) "RECORD" HAS THE SAME MEANING AS SET FORTH IN THE
5 FEDERAL "FAMILY EDUCATION RIGHTS AND PRIVACY ACT", 20 U.S.C.
6 SEC. 1232g, AND ITS IMPLEMENTING REGULATIONS, 34 CFR 99.3.

7 (20) "STATE AGENCY" MEANS THE COLORADO DEPARTMENT OF
8 EDUCATION, THE STATE BOARD OF EDUCATION, THE COLORADO DIVISION
9 OF EARLY CARE AND LEARNING, COLORADO STUDENT FINANCIAL
10 ASSISTANCE AGENCIES, THE COLORADO PROFESSIONAL TEACHING
11 STANDARDS COMMISSION, ANY REGIONAL EDUCATION SERVICE AGENCY,
12 OR ANY OTHER STATE EDUCATION ENTITY.

13 (21) "STUDENT" HAS THE SAME MEANING AS SET FORTH IN THE
14 FEDERAL "FAMILY EDUCATION RIGHTS AND PRIVACY ACT", 20 U.S.C.
15 SEC. 1232g, AND ITS IMPLEMENTING REGULATIONS, 34 CFR 99.3.

16 (22) "STUDENT DATABASE" MEANS ANY DATA SYSTEM, INCLUDING
17 REGIONAL, INTERSTATE, OR FEDERAL DATA WAREHOUSE ORGANIZATIONS
18 UNDER CONTRACT TO OR WITH A MEMORANDUM OF UNDERSTANDING WITH
19 THE DEPARTMENT, TO TRACK COLORADO STUDENT DATA.

20 (23) "TEACHER RECORDS" APPLIES TO TEACHERS,
21 PARAPROFESSIONALS, PRINCIPALS, AND OTHER ADMINISTRATORS AND
22 INCLUDES ANY OF THE FOLLOWING:

23 (a) SOCIAL SECURITY NUMBER;

24 (b) NAME, ADDRESS, E-MAIL ADDRESS, AND TELEPHONE NUMBERS;

25 (c) DATE OF BIRTH;

26 (d) COMPENSATION INFORMATION AND PERFORMANCE
27 EVALUATIONS;

1 (e) RESUME INFORMATION; AND

2 (f) ANY OTHER INFORMATION THAT, ALONE OR IN COMBINATION,
3 IS LINKED OR LINKABLE TO A SPECIFIC STAFF MEMBER AND WOULD ALLOW
4 A REASONABLE PERSON IN THE SCHOOL COMMUNITY WHO WOULD
5 OTHERWISE NOT HAVE PERSONAL KNOWLEDGE OF RELEVANT
6 CIRCUMSTANCES TO IDENTIFY THE STAFF MEMBER WITH REASONABLE
7 CERTAINTY.

8 (24) "TRACK" MEANS TO COLLECT AND MAINTAIN RECORDS OF A
9 STUDENT'S ACTIVITIES ONCE HE OR SHE EXITS THE EDUCATIONAL SYSTEM,
10 INCLUDING BUT NOT LIMITED TO HIS OR HER ENTRANCE INTO AND
11 PROGRESSION THROUGH THE WORKFORCE OR MILITARY.

12 (25) "WORKFORCE INFORMATION" MEANS INFORMATION RELATED
13 TO UNEMPLOYMENT INSURANCE, WAGE RECORDS, UNEMPLOYMENT
14 BENEFIT CLAIMS, OR EMPLOYMENT AND EARNINGS DATA FROM
15 WORKFORCE DATA SOURCES, SUCH AS STATE WAGE RECORDS OR THE
16 FEDERAL EMPLOYMENT DATA EXCHANGE SYSTEM.

17 (26) "WRITTEN CONSENT" MEANS CONSENT GIVEN IN WRITING
18 WITHIN SIX MONTHS BEFORE THE DATA COLLECTION OR DATA DISCLOSURE
19 TO WHICH CONSENT IS BEING GIVEN. "WRITTEN CONSENT" MUST
20 REFERENCE A SPECIFIC DATA COLLECTION OR DATA DISCLOSURE AND BE
21 DATED AND SIGNED ON THE SAME DAY.

22 **22-15-103. Data collection - limitations.** (1) THE COLLECTION
23 OF STUDENT DATA BY ANY STATE AGENCY OR EDUCATION INSTITUTION
24 WITHOUT WRITTEN CONSENT OF PARENTS OR ELIGIBLE STUDENTS IS
25 LIMITED TO THE FOLLOWING INFORMATION:

26 (a) NAME, ADDRESS, E-MAIL ADDRESS, TELEPHONE NUMBER, AND
27 FAMILY CONTACT INFORMATION;

- 1 (b) STATE AND NATIONAL ASSESSMENT RESULTS;
- 2 (c) A SUMMARY OF COURSES TAKEN AND COMPLETED AND CREDITS
3 EARNED;
- 4 (d) COURSE GRADES AND GRADE POINT AVERAGE;
- 5 (e) DATE OF BIRTH, GRADE LEVEL, AND EXPECTED GRADUATION
6 DATE AND GRADUATION COHORT;
- 7 (f) DEGREE, DIPLOMA, OR CREDENTIAL ATTAINMENT;
- 8 (g) ENROLLMENT VERIFICATION, ATTENDANCE, AND TRANSFERS;
- 9 (h) IMMUNIZATION RECORDS REQUIRED BY STATE LAW, RECORDS
10 NEEDED OR CREATED BY A SCHOOL-BASED HEALTH PROFESSIONAL FOR
11 ADMINISTERING PRESCRIPTION DRUGS OR OTHERWISE TREATING A
12 STUDENT AT SCHOOL, RECORDS NEEDED OR CREATED BY A SCHOOL-BASED
13 COUNSELOR WHEN A STUDENT SEEKS COUNSELING WHILE AT SCHOOL, OR
14 RECORDS REQUIRED BY THE FEDERAL "INDIVIDUALS WITH DISABILITIES
15 EDUCATION ACT", 20 U.S.C. SEC. 1400 ET SEQ.;
- 16 (i) DISCIPLINE REPORTS LIMITED TO OBJECTIVE INFORMATION
17 ABOUT DISCIPLINARY INCIDENTS;
- 18 (j) JUVENILE DELINQUENCY OR OTHER CRIMINAL OR
19 CORRECTIONAL RECORDS IF NECESSARY TO MEET THE EDUCATIONAL
20 NEEDS OF THE STUDENT OR TO ENSURE STAFF OR STUDENT SAFETY;
- 21 (k) REMEDIATION DATA;
- 22 (l) SPECIAL EDUCATION DATA, LIMITED TO DATA REQUIRED BY THE
23 FEDERAL "INDIVIDUALS WITH DISABILITIES EDUCATION ACT", 20 U.S.C.
24 SEC. 1400 ET SEQ.;
- 25 (m) DEMOGRAPHIC DATA LIMITED TO THAT REQUIRED BY THE
26 FEDERAL "ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965", 20
27 U.S.C. SEC. 6301 ET SEQ., INCLUDING RACE, ECONOMIC STATUS,

1 DISABILITY STATUS, AND ENGLISH PROFICIENCY STATUS;

2 (n) STUDENT WORKFORCE INFORMATION, LIMITED TO
3 INFORMATION RELATED TO WORK-STUDY PROGRAMS IN WHICH THE
4 STUDENT PARTICIPATED FOR ACADEMIC CREDIT;

5 (o) STUDENT OR FAMILY SOCIAL SECURITY NUMBERS ONLY IF
6 NEEDED TO COMPLY WITH STATE OR FEDERAL LAW;

7 (p) STUDENT OR FAMILY INCOME DATA, LIMITED TO DATA
8 REQUIRED BY LAW TO DETERMINE ELIGIBILITY TO PARTICIPATE IN OR
9 RECEIVE FINANCIAL ASSISTANCE FROM AN EDUCATION INSTITUTION; AND

10 (q) INFORMATION ABOUT EXTRACURRICULAR ACTIVITIES, LIMITED
11 TO ACTIVITIES THAT ARE SCHOOL-SPONSORED OR ENGAGED IN FOR
12 ACADEMIC CREDIT.

13 (2) UNLESS EXPRESSLY MANDATED BY FEDERAL LAW, A STATE
14 AGENCY OR EDUCATION INSTITUTION SHALL OBTAIN WRITTEN CONSENT
15 FROM PARENTS OR ELIGIBLE STUDENTS PRIOR TO COLLECTING ANY DATA
16 NOT SET FORTH IN SUBSECTION (1) OF THIS SECTION, INCLUDING BUT NOT
17 LIMITED TO:

18 (a) MEDICAL, HEALTH, AND MENTAL HEALTH RECORDS, EXCEPT AS
19 PROVIDED FOR IN PARAGRAPH (h) OF SUBSECTION (1) OF THIS SECTION;

20 (b) STUDENT OR FAMILY WORKFORCE INFORMATION, EXCEPT AS
21 PROVIDED FOR IN PARAGRAPH (n) OF SUBSECTION (1) OF THIS SECTION;

22 (c) STUDENT BIOMETRIC RECORDS;

23 (d) ANY DATA COLLECTED THROUGH AFFECTIVE COMPUTING,
24 INCLUDING ANALYSIS OF FACIAL EXPRESSIONS, EEG BRAIN WAVE
25 PATTERNS, SKIN CONDUCTANCE, GALVANIC SKIN RESPONSE, HEART RATE
26 VARIABILITY, PULSE, BLOOD VOLUME, POSTURE, AND EYE TRACKING;

27 (e) ANY DATA, INCLUDING THAT RESULTING FROM STATE OR

1 NATIONAL ASSESSMENTS, THAT MEASURE PSYCHOLOGICAL RESOURCES,
2 MINDSETS, LEARNING STRATEGIES, EFFORTFUL CONTROL, ATTRIBUTES,
3 DISPOSITIONS, SOCIAL SKILLS, ATTITUDES, OR INTRAPERSONAL
4 RESOURCES;

5 (f) ANY DATA COLLECTED THROUGH PREDICTIVE MODELING; AND

6 (g) INFORMATION RELATED TO STUDENT OR FAMILY RELIGIOUS
7 AFFILIATION.

8 (3) MONEYS, INCLUDING BUT NOT LIMITED TO FEDERAL "RACE TO
9 THE TOP" AND "AMERICAN REINVESTMENT AND RECOVERY ACT OF 2009"
10 GRANTS, SHALL NOT BE USED FOR CONSTRUCTION, ENHANCEMENT, OR
11 EXPANSION OF ANY DATA SYSTEM THAT DOES NOT COMPLY WITH THE
12 LIMITATIONS SET FORTH IN THIS SECTION, THAT IS DESIGNED TO TRACK
13 STUDENTS BEYOND K-12 OR POSTSECONDARY EDUCATION CAREERS, OR
14 THAT COMPILES PERSONAL, NONACADEMIC INFORMATION ON STUDENTS
15 BEYOND WHAT IS NECESSARY FOR EITHER ADMINISTRATIVE FUNCTIONS
16 DIRECTLY RELATED TO THE STUDENT'S EDUCATION OR THE EVALUATION
17 OF ACADEMIC PROGRAMS AND STUDENT PROGRESS.

18 (4) A STATE AGENCY OR EDUCATION INSTITUTION SHALL NOT
19 PURSUE OR ACCEPT ANY FEDERAL OR PRIVATE GRANT THAT REQUIRES
20 COLLECTING OR REPORTING ANY TYPE OF DATA IN VIOLATION OF
21 SUBSECTION (2) OF THIS SECTION.

22 **22-15-104. Transparency of data systems.** (1) EACH STATE
23 AGENCY AND EDUCATION INSTITUTION SHALL PUBLICLY AND
24 CONSPICUOUSLY DISCLOSE ON ITS WEB SITE THE EXISTENCE AND
25 CHARACTER OF ANY PERSONALLY IDENTIFIABLE INFORMATION RELATED
26 TO EDUCATION OR TEACHER RECORDS MAINTAINED, DIRECTLY OR
27 THROUGH CONTRACTS WITH OUTSIDE ENTITIES, BY THE STATE AGENCY OR

1 EDUCATION INSTITUTION. EACH EDUCATION INSTITUTION SHALL
2 ANNUALLY NOTIFY PARENTS, ELIGIBLE STUDENTS, AND TEACHERS OF THE
3 WEB SITE POSTING. EACH STATE AGENCY SHALL PROVIDE ELECTRONIC
4 NOTIFICATION OF THE WEB SITE POSTING TO THE EDUCATION COMMITTEES
5 OF THE SENATE AND HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR
6 COMMITTEES.

7 (2) THE DISCLOSURE AND NOTIFICATION REQUIRED PURSUANT TO
8 SUBSECTION (1) OF THIS SECTION MUST INCLUDE, AT A MINIMUM, THE
9 FOLLOWING INFORMATION:

10 (a) THE LEGAL AUTHORITY THAT AUTHORIZES THE ESTABLISHMENT
11 AND EXISTENCE OF THE DATA REPOSITORY;

12 (b) THE PRINCIPAL PURPOSE OR PURPOSES FOR WHICH THE DATA IS
13 INTENDED TO BE USED;

14 (c) THE CATEGORIES OF INDIVIDUALS ON WHOM RECORDS ARE
15 MAINTAINED IN THE DATA REPOSITORY;

16 (d) THE CATEGORIES OF RECORDS MAINTAINED IN THE DATA
17 REPOSITORY;

18 (e) EACH EXPECTED DISCLOSURE OF THE RECORDS CONTAINED IN
19 THE DATA REPOSITORY, INCLUDING THE CATEGORIES OF RECIPIENTS AND
20 THE PURPOSE OF SUCH DISCLOSURE;

21 (f) THE POLICIES AND PRACTICES OF THE STATE AGENCY OR
22 EDUCATION INSTITUTION AND ANY VENDOR OR THIRD PARTY REGARDING
23 STORAGE, ABILITY TO RETRIEVE, ACCESS CONTROLS, RETENTION, AND
24 DISPOSAL OF THE RECORDS;

25 (g) THE TITLE AND BUSINESS ADDRESS OF THE OFFICIAL
26 RESPONSIBLE FOR THE DATA REPOSITORY AND THE NAME AND BUSINESS
27 ADDRESS OF ANY CONTRACTOR OR THIRD PARTY MAINTAINING THE DATA

1 REPOSITORY FOR OR ON BEHALF OF THE STATE AGENCY OR EDUCATION
2 INSTITUTION;

3 (h) THE PROCEDURES BY WHICH A PARENT, ELIGIBLE STUDENT, OR
4 TEACHER CAN BE NOTIFIED AT HIS OR HER REQUEST IF THE DATA
5 REPOSITORY CONTAINS A RECORD PERTAINING TO HIM OR HER; AND

6 (i) THE PROCEDURES BY WHICH A PARENT, ELIGIBLE STUDENT, OR
7 TEACHER CAN BE NOTIFIED AT HIS OR HER REQUEST CONCERNING HOW TO
8 ACCESS ANY RECORD PERTAINING TO HIM OR HER THAT IS CONTAINED IN
9 THE DATA REPOSITORY AND HOW HE OR SHE CAN CONTEST ITS CONTENT.

10 (3) UPON REQUEST, A PARENT OR ELIGIBLE STUDENT MUST BE
11 PROVIDED WITH A WRITTEN COPY OF HIS OR HER EDUCATION RECORDS
12 THAT ARE HELD IN A DATA REPOSITORY. HE OR SHE HAS THE RIGHT TO
13 CORRECT SUCH EDUCATION RECORDS IN A MANNER THAT IS CONSISTENT
14 WITH THE REQUIREMENTS OF STATE AND FEDERAL LAW.

15 (4) EACH STATE AGENCY AND EDUCATION INSTITUTION SHALL
16 NOTIFY THE GOVERNOR, THE GENERAL ASSEMBLY, AND THE STATE BOARD
17 OF EDUCATION OF ANY:

18 (a) NEW STUDENT DATA PROPOSED FOR INCLUSION IN ANY
19 STATE-MAINTAINED DATABASES, DATA SYSTEMS, OR RECORDS; AND

20 (b) CHANGES TO EXISTING DATA COLLECTIONS THAT ARE
21 REQUIRED FOR ANY REASON, INCLUDING CHANGES TO FEDERAL REPORTING
22 REQUIREMENTS MADE BY THE UNITED STATES DEPARTMENT OF
23 EDUCATION.

24 (5) A STATE AGENCY OR EDUCATION INSTITUTION AND ANY
25 SUBDIVISION OR LOCAL AGENCY SHALL USE ONLY AGGREGATE DATA IN
26 PUBLISHED REPORTS.

27 **22-15-105. Adopting or administering assessments -**

1 **limitations.** AN EDUCATION INSTITUTION SHALL NOT ADOPT OR
2 ADMINISTER ANY DISTRICT, STATE, OR NATIONAL STUDENT ASSESSMENT
3 THAT COLLECTS ANY TYPE OF PSYCHOLOGICAL DATA, INCLUDING BUT NOT
4 LIMITED TO ASSESSMENT OF NONCOGNITIVE SKILLS OR ATTRIBUTES,
5 PSYCHOLOGICAL RESOURCES, MINDSETS, LEARNING STRATEGIES,
6 EFFORTFUL CONTROL, ATTITUDES, DISPOSITIONS, SOCIAL SKILLS, OR OTHER
7 INTERPERSONAL OR INTRAPERSONAL RESOURCES.

8 **22-15-106. Collection of sensitive information - limitations.**

9 (1) AN EDUCATION INSTITUTION OR STATE AGENCY SHALL NOT
10 ADMINISTER ANY STUDENT SURVEY, ASSESSMENT, ANALYSIS,
11 EVALUATION, OR SIMILAR INSTRUMENT THAT SOLICITS INFORMATION
12 ABOUT A STUDENT OR A STUDENT'S FAMILY CONCERNING ANY OF THE
13 FOLLOWING:

- 14 (a) POLITICAL OR RELIGIOUS AFFILIATIONS OR BELIEFS;
- 15 (b) MENTAL OR PSYCHOLOGICAL ATTITUDES OR PROBLEMS,
16 PSYCHOLOGICAL RESOURCES, MINDSETS, LEARNING STRATEGIES,
17 EFFORTFUL CONTROL, ATTRIBUTES, DISPOSITIONS, SOCIAL SKILLS,
18 ATTITUDES, OR INTRAPERSONAL RESOURCES;
- 19 (c) SEXUAL BEHAVIOR OR ATTITUDES;
- 20 (d) ILLEGAL, ANTISOCIAL, SELF-INCRIMINATING, OR DEMEANING
21 BEHAVIOR;
- 22 (e) CRITICAL APPRAISALS OF ANOTHER INDIVIDUAL WITH WHOM A
23 STUDENT HAS A CLOSE FAMILY RELATIONSHIP;
- 24 (f) LEGALLY RECOGNIZED PRIVILEGED OR ANALOGOUS
25 RELATIONSHIPS, SUCH AS THOSE WITH AN ATTORNEY, PHYSICIAN, OR
26 CLERGY;
- 27 (g) PERSONAL OR FAMILY GUN OWNERSHIP; OR

1 (h) INCOME OR INCOME-RELATED INFORMATION EXCEPT
2 INFORMATION REQUIRED BY LAW TO DETERMINE ELIGIBILITY TO
3 PARTICIPATE IN OR RECEIVE FINANCIAL ASSISTANCE FOR AN EDUCATION
4 PROGRAM.

5 **22-15-107. Disclosure of personally identifiable information to**
6 **third parties - limitations.** (1) EXCEPT AS OTHERWISE PROVIDED IN THIS
7 ARTICLE, ACCESS TO EDUCATION RECORDS IS RESTRICTED TO AUTHORIZED
8 REPRESENTATIVES OF THE EDUCATION INSTITUTION OR STATE AGENCY
9 WHO REQUIRE ACCESS TO THE INFORMATION TO PERFORM AN ASSIGNED
10 DUTY. A PERSON MAY NOT BE DESIGNATED AS AN AUTHORIZED
11 REPRESENTATIVE UNLESS HE OR HE IS ON THE STAFF AND UNDER THE
12 DIRECT CONTROL OF THE DESIGNATING EDUCATION INSTITUTION OR STATE
13 AGENCY.

14 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE,
15 PERSONALLY IDENTIFIABLE INFORMATION CONTAINED IN AN EDUCATION
16 OR TEACHER RECORD MUST NOT BE DISCLOSED WITHOUT WRITTEN
17 CONSENT OF THE AFFECTED PARENT, ELIGIBLE STUDENT, OR TEACHER.

18 (3) VENDORS OR THIRD PARTIES SHALL NOT REDISTRIBUTE, SHARE,
19 OR SELL EDUCATION OR TEACHER RECORDS.

20 **22-15-108. Research and studies.** (1) THE DEPARTMENT SHALL
21 DEVELOP AND PUBLISH CRITERIA FOR THE APPROVAL OF
22 RESEARCH-RELATED DATA REQUESTS FROM STATE AND LOCAL
23 GOVERNMENT AGENCIES, THE GENERAL ASSEMBLY, ACADEMIC
24 RESEARCHERS, AND THE PUBLIC.

25 (2) (a) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS
26 SUBSECTION (2), PERSONALLY IDENTIFIABLE INFORMATION CONTAINED IN
27 AN EDUCATION OR TEACHER RECORD MAY NOT BE RELEASED TO A

1 THIRD-PARTY CONTRACTOR CONDUCTING A STUDY FOR OR ON BEHALF OF
2 A STATE AGENCY OR EDUCATION INSTITUTION WITHOUT WRITTEN CONSENT
3 OF THE AFFECTED PARENT, ELIGIBLE STUDENT, OR TEACHER.

4 (b) PROVIDED THAT THE THIRD-PARTY CONTRACTOR CONDUCTING
5 A STUDY MEETS ALL THE REQUIREMENTS FOR CONTRACTORS SET FORTH IN
6 SECTION 22-15-110, PERSONALLY IDENTIFIABLE INFORMATION CONTAINED
7 IN AN EDUCATION OR TEACHER RECORD MAY BE RELEASED TO THE
8 CONTRACTOR THAT IS CONDUCTING A STUDY FOR OR ON BEHALF OF A
9 STATE AGENCY OR EDUCATION INSTITUTION WITHOUT WRITTEN CONSENT
10 OF THE AFFECTED PARENT, ELIGIBLE STUDENT, OR TEACHER IN THE
11 FOLLOWING SITUATIONS:

12 (I) TO DEVELOP, VALIDATE, OR ADMINISTER ASSESSMENTS; OR

13 (II) TO ADMINISTER STUDENT FINANCIAL ASSISTANCE PROGRAMS.

14 **22-15-109. Audits, evaluations, and compliance.** IN
15 CONDUCTING AN AUDIT OR EVALUATION OF AN EDUCATION PROGRAM, OR
16 A COMPLIANCE OR ENFORCEMENT ACTIVITY IN CONNECTION WITH LEGAL
17 REQUIREMENTS RELATED TO STATE- OR DISTRICT-SUPPORTED EDUCATION
18 PROGRAMS, EDUCATION AND TEACHER RECORDS MUST BE RELEASED ONLY
19 TO AN AUTHORIZED REPRESENTATIVE OF AN EDUCATION INSTITUTION OR
20 STATE AGENCY IF THE AUDIT, EVALUATION, OR COMPLIANCE OR
21 ENFORCEMENT ACTIVITY INVOLVES ACCESS TO PERSONALLY IDENTIFIABLE
22 INFORMATION. AN INDIVIDUAL MUST NOT BE DESIGNATED AS AN
23 AUTHORIZED REPRESENTATIVE UNLESS HE OR SHE IS ON THE STAFF AND
24 UNDER THE DIRECT CONTROL OF THE DESIGNATING EDUCATION
25 INSTITUTION OR STATE AGENCY.

26 **22-15-110. Outsourcing.** (1) AN EDUCATION INSTITUTION OR
27 STATE AGENCY SHALL NOT DISCLOSE PERSONALLY IDENTIFIABLE

1 INFORMATION CONTAINED IN EDUCATION OR TEACHER RECORDS TO AN
2 OUTSIDE CONTRACTOR WITH WHICH THE EDUCATION INSTITUTION OR
3 STATE AGENCY HAS OUTSOURCED INSTITUTIONAL SERVICES OR FUNCTIONS
4 WITHOUT WRITTEN CONSENT OF AFFECTED PARENTS, ELIGIBLE STUDENTS,
5 OR TEACHERS UNLESS THE OUTSIDE CONTRACTOR:

6 (a) PERFORMS AN INSTITUTIONAL SERVICE OR FUNCTION FOR
7 WHICH THE EDUCATION INSTITUTION OR STATE AGENCY WOULD
8 OTHERWISE USE ITS OWN EMPLOYEES;

9 (b) IS UNDER THE DIRECT CONTROL OF THE EDUCATION
10 INSTITUTION OR STATE AGENCY WITH RESPECT TO THE USE AND
11 MAINTENANCE OF EDUCATION OR TEACHER RECORDS;

12 (c) LIMITS INTERNAL ACCESS TO EDUCATION OR TEACHER RECORDS
13 TO THOSE INDIVIDUALS WHO REQUIRE ACCESS TO THOSE RECORDS FOR
14 COMPLETION OF THE CONTRACT;

15 (d) DOES NOT USE THE EDUCATION OR TEACHER RECORDS FOR ANY
16 PURPOSE OTHER THAN THOSE EXPLICITLY AUTHORIZED IN THE CONTRACT;

17 (e) DOES NOT DISCLOSE ANY PERSONALLY IDENTIFIABLE
18 INFORMATION CONTAINED IN EDUCATION OR TEACHER RECORDS TO ANY
19 OTHER PARTY:

20 (I) WITHOUT WRITTEN CONSENT OF THE AFFECTED PARENT,
21 ELIGIBLE STUDENT, OR TEACHER; OR

22 (II) UNLESS THE DISCLOSURE IS REQUIRED BY LAW OR COURT
23 ORDER AND THE CONTRACTOR PROVIDES A NOTICE OF THE DISCLOSURE TO
24 THE EDUCATION INSTITUTION OR STATE AGENCY THAT INITIALLY
25 PROVIDED THE INFORMATION. NOTICE MUST OCCUR NO LATER THAN THE
26 TIME THE INFORMATION IS DISCLOSED, UNLESS PROVIDING SAID NOTICE IS
27 EXPRESSLY PROHIBITED BY LAW OR COURT ORDER.

1 (f) MAINTAINS REASONABLE ADMINISTRATIVE, TECHNICAL, AND
2 PHYSICAL SAFEGUARDS TO PROTECT THE SECURITY, CONFIDENTIALITY,
3 AND INTEGRITY OF THE PERSONALLY IDENTIFIABLE INFORMATION IN ITS
4 CUSTODY;

5 (g) USES ENCRYPTION TECHNOLOGIES TO PROTECT DATA FROM
6 UNAUTHORIZED DISCLOSURE WHILE IN MOTION OR IN ITS CUSTODY. THE
7 TECHNOLOGY OR METHODOLOGY MUST BE OF THE TYPE SPECIFIED BY THE
8 SECRETARY OF THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN
9 SERVICES IN GUIDANCE ISSUED PURSUANT TO PUB.L. 111-5, SECTION
10 13402 (h) (2);

11 (h) HAS SUFFICIENT ADMINISTRATIVE AND TECHNICAL
12 PROCEDURES IN PLACE TO CONTINUOUSLY MONITOR THE SECURITY OF
13 PERSONALLY IDENTIFIABLE INFORMATION CONTAINED IN EDUCATION AND
14 TEACHER RECORDS IN ITS CUSTODY;

15 (i) CONDUCTS A SECURITY AUDIT ANNUALLY AND PROVIDES THE
16 RESULTS OF THE AUDIT TO EACH EDUCATION INSTITUTION AND STATE
17 AGENCY FROM WHICH IT HAS OBTAINED EDUCATION OR TEACHER
18 RECORDS;

19 (j) PRIOR TO THE INITIAL RECEIPT OF EDUCATION AND TEACHER
20 RECORDS, PROVIDES THE EDUCATION INSTITUTION OR STATE AGENCY WITH
21 A BREACH REMEDIATION PLAN THAT IS ACCEPTABLE TO THE EDUCATION
22 INSTITUTION OR STATE AGENCY;

23 (k) REPORTS IMMEDIATELY ALL SUSPECTED SECURITY BREACHES
24 TO THE EDUCATION INSTITUTION OR STATE AGENCY THAT PROVIDED THE
25 EDUCATION OR TEACHER RECORDS;

26 (l) REPORTS IMMEDIATELY ALL ACTUAL SECURITY BREACHES TO
27 THE EDUCATION INSTITUTION, STATE AGENCY, AND AFFECTED

1 INDIVIDUALS;

2 (m) IN THE EVENT OF A SECURITY BREACH OR UNAUTHORIZED
3 DISCLOSURE OF PERSONALLY IDENTIFIABLE INFORMATION CONTAINED IN
4 EDUCATION OR TEACHER RECORDS, PAYS ALL COSTS AND LIABILITIES
5 INCURRED BY THE EDUCATION INSTITUTION OR STATE AGENCY THAT ARE
6 RELATED TO THE SECURITY BREACH OR UNAUTHORIZED DISCLOSURE,
7 INCLUDING BUT NOT LIMITED TO THE COSTS OF RESPONDING TO INQUIRIES,
8 NOTIFYING AFFECTED INDIVIDUALS, MITIGATING THE EFFECTS OF THE
9 BREACH OR DISCLOSURE, AND INVESTIGATING THE CAUSE OR
10 CONSEQUENCES OF THE BREACH OR DISCLOSURE; AND

11 (n) DESTROYS OR RETURNS TO THE EDUCATION INSTITUTION OR
12 STATE AGENCY ALL PERSONALLY IDENTIFIABLE INFORMATION IN ITS
13 CUSTODY UPON REQUEST AND AT THE TERMINATION OF THE CONTRACT.

14 **22-15-111. Security breach or unauthorized disclosure -**
15 **required actions.** (1) IN THE EVENT OF A SECURITY BREACH OR
16 UNAUTHORIZED DISCLOSURE OF PERSONALLY IDENTIFIABLE INFORMATION
17 CONTAINED IN EDUCATION OR TEACHER RECORDS, WHETHER BY AN
18 EDUCATION INSTITUTION, STATE AGENCY, OR THIRD-PARTY CONTRACTOR,
19 THE EDUCATION INSTITUTION, STATE AGENCY, OR THIRD-PARTY
20 CONTRACTOR SHALL:

21 (a) IMMEDIATELY NOTIFY THE INDIVIDUALS AFFECTED BY THE
22 BREACH OR DISCLOSURE;

23 (b) REPORT THE BREACH OR DISCLOSURE TO THE FAMILY POLICY
24 COMPLIANCE OFFICE OF THE UNITED STATES DEPARTMENT OF EDUCATION;
25 AND

26 (c) INVESTIGATE THE CAUSES AND CONSEQUENCES OF THE BREACH
27 OR DISCLOSURE.

1 **22-15-112. Prohibitions on commercial use.** (1) PERSONALLY
2 IDENTIFIABLE INFORMATION CONTAINED IN EDUCATION OR TEACHER
3 RECORDS MUST NOT BE DISCLOSED TO ANY ENTITY FOR COMMERCIAL USE,
4 INCLUDING BUT NOT LIMITED TO MARKETING PRODUCTS OR SERVICES,
5 COMPILATION OF LISTS FOR SALE OR RENTAL, DEVELOPMENT OF PRODUCTS
6 OR SERVICES, OR CREATION OF INDIVIDUAL, HOUSEHOLD, OR GROUP
7 PROFILES.

8 (2) A CLOUD-COMPUTING SERVICE PROVIDER THAT PERFORMS
9 SERVICES FOR AN EDUCATION INSTITUTION OR STATE AGENCY IS
10 PROHIBITED FROM USING INFORMATION FROM EDUCATION OR TEACHER
11 RECORDS FOR ANY SECONDARY PURPOSE THAT MIGHT BENEFIT THE
12 CLOUD-COMPUTING SERVICE PROVIDER OR ANY OTHER THIRD PARTY,
13 INCLUDING BUT NOT LIMITED TO ON-LINE BEHAVIORAL ADVERTISING,
14 CREATING OR CORRECTING AN INDIVIDUAL OR HOUSEHOLD PROFILE
15 PRIMARILY FOR THE CLOUD-COMPUTING SERVICE PROVIDER'S BENEFIT,
16 SELLING THE DATA FOR ANY COMMERCIAL PURPOSE, OR ANY OTHER
17 SIMILAR COMMERCIAL FOR-PROFIT ACTIVITY. HOWEVER, A
18 CLOUD-COMPUTING SERVICE PROVIDER MAY PROCESS OR MONITOR
19 STUDENT DATA SOLELY TO PROVIDE SUCH SERVICE TO AN EDUCATION
20 INSTITUTION OR STATE AGENCY AND TO MAINTAIN THE INTEGRITY OF SAID
21 SERVICE.

22 (3) A CLOUD-COMPUTING SERVICE PROVIDER THAT ENTERS INTO
23 AN AGREEMENT TO PROVIDE CLOUD-COMPUTING SERVICES TO AN
24 EDUCATION INSTITUTION OR STATE AGENCY SHALL CERTIFY IN WRITING
25 THAT IT WILL COMPLY WITH THE TERMS AND CONDITIONS SET FORTH IN
26 SECTION 22-15-110 AND THAT THE EDUCATION INSTITUTION OR STATE
27 AGENCY MAINTAINS OWNERSHIP OF ALL EDUCATION AND TEACHER

1 RECORDS.

2 (4) ANY EDUCATION OR TEACHER RECORDS STORED BY A
3 CLOUD-COMPUTING SERVICE PROVIDER MUST BE STORED WITHIN THE
4 UNITED STATES.

5 **22-15-113. Predictive modeling prohibited.** STUDENT DATA
6 MUST NOT BE USED FOR PREDICTIVE MODELING TO DETECT BEHAVIORS,
7 BELIEFS, OR VALUE SYSTEMS OR FOR PREDICTING OR FORECASTING
8 STUDENT OUTCOMES.

9 **22-15-114. Video monitoring - prohibition.** VIDEO MONITORING
10 OF CLASSROOMS FOR ANY PURPOSE IS PROHIBITED, INCLUDING FOR
11 TEACHER EVALUATIONS, WITHOUT THE APPROVAL OF THE SCHOOL
12 DISTRICT BOARD OF EDUCATION AFTER PUBLIC HEARINGS AND WRITTEN
13 CONSENT OF THE TEACHER, ALL ELIGIBLE STUDENTS, AND PARENTS OF ALL
14 STUDENTS IN THE CLASSROOM.

15 **22-15-115. Interagency disclosure prohibited.** PERSONALLY
16 IDENTIFIABLE INFORMATION CONTAINED IN EDUCATION OR TEACHER
17 RECORDS MUST NOT BE DISCLOSED TO A NONEDUCATION GOVERNMENT
18 AGENCY, INCLUDING BUT NOT LIMITED TO ANY ENTITY THAT INTENDS TO
19 USE OR DISCLOSE THE INFORMATION OR DATA FOR THE PURPOSE OF
20 WORKFORCE DEVELOPMENT OR ECONOMIC PLANNING.

21 **22-15-116. Interstate disclosure - limitations.** (1) EXCEPT AS
22 OTHERWISE PROVIDED IN THIS ARTICLE, PERSONALLY IDENTIFIABLE
23 INFORMATION CONTAINED IN EDUCATION AND TEACHER RECORDS MUST
24 NOT BE DISCLOSED TO ANY ENTITY OUTSIDE THE STATE; EXCEPT THAT
25 DISCLOSURE MAY BE MADE:

26 (a) TO AN OUT-OF-STATE INSTITUTION ATTENDED BY A STUDENT
27 WHO TRANSFERRED FROM COLORADO;

1 (b) TO AN OUT-OF-STATE PROGRAM IN WHICH A STUDENT
2 VOLUNTARILY PARTICIPATES AND FOR WHICH SUCH A DATA TRANSFER IS
3 A CONDITION OR REQUIREMENT OF PARTICIPATION; OR

4 (c) WHEN A STUDENT IS CLASSIFIED AS A MIGRANT FOR FEDERAL
5 REPORTING PURPOSES.

6 **22-15-117. Disclosure to federal government - limitations.**

7 (1) PERSONALLY IDENTIFIABLE INFORMATION CONTAINED IN EDUCATION
8 OR TEACHER RECORDS MUST NOT BE DISCLOSED TO ANY FEDERAL AGENCY
9 UNLESS:

10 (a) SUCH DISCLOSURE IS REQUIRED BY THE UNITED STATES
11 DEPARTMENT OF EDUCATION AS A CONDITION OF RECEIVING A FEDERAL
12 EDUCATION GRANT;

13 (b) THE UNITED STATES DEPARTMENT OF EDUCATION AGREES IN
14 WRITING TO USE THE INFORMATION FROM THE EDUCATION OR TEACHER
15 RECORDS ONLY TO EVALUATE THE PROGRAM OR PROGRAMS FUNDED BY A
16 FEDERAL GRANT;

17 (c) THE UNITED STATES DEPARTMENT OF EDUCATION AGREES IN
18 WRITING THAT THE INFORMATION WILL NOT BE USED FOR ANY RESEARCH
19 BEYOND THAT RELATED TO THE EVALUATION OF THE PROGRAM OR
20 PROGRAMS FUNDED BY THE FEDERAL GRANT, UNLESS THE PARENT,
21 ELIGIBLE STUDENT, OR TEACHER WHOSE INFORMATION WILL BE USED
22 PROVIDES WRITTEN CONSENT;

23 (d) THE UNITED STATES DEPARTMENT OF EDUCATION AGREES IN
24 WRITING TO DESTROY THE INFORMATION UPON COMPLETION OF THE
25 EVALUATION OF THE PROGRAM OR PROGRAMS FOR WHICH THE
26 INFORMATION WAS COMPILED; AND

27 (e) THE FEDERAL GRANT OR PROGRAM IN CONNECTION WITH THE

1 INFORMATION REQUIRED IS ONE EXPLICITLY AUTHORIZED BY FEDERAL LAW
2 OR RULE.

3 (2) IF THE UNITED STATES DEPARTMENT OF EDUCATION REQUIRES,
4 AS A CONDITION OF MAKING A FEDERAL EDUCATION GRANT, THAT THE
5 GRANT RECIPIENT DISCLOSE EDUCATION OR TEACHER RECORDS UNDER
6 CIRCUMSTANCES THAT DO NOT COMPLY WITH SUBSECTION (1) OF THIS
7 SECTION, THE GRANT RECIPIENT SHALL OBTAIN WRITTEN CONSENT FROM
8 THE PARENTS OF EVERY STUDENT, ELIGIBLE STUDENTS, OR TEACHERS
9 WHOSE INFORMATION WILL BE DISCLOSED.

10 (3) IF THE UNITED STATES DEPARTMENT OF EDUCATION DEMANDS
11 PERSONALLY IDENTIFIABLE INFORMATION CONTAINED IN EDUCATION OR
12 TEACHER RECORDS WITHOUT THE WRITTEN CONSENT OF AFFECTED
13 PARENTS, ELIGIBLE STUDENTS, OR TEACHERS, THE GRANT RECIPIENT SHALL
14 PROVIDE WRITTEN NOTIFICATION TO SAID PARENTS, ELIGIBLE STUDENTS,
15 AND TEACHERS OF THE FOLLOWING:

16 (a) THAT THE GRANT RECIPIENT HAS BEEN REQUIRED TO DISCLOSE
17 THE PERSONALLY IDENTIFIABLE INFORMATION CONTAINED IN THE
18 EDUCATION OR TEACHER RECORDS TO THE UNITED STATES DEPARTMENT
19 OF EDUCATION;

20 (b) THAT NEITHER THE GRANT RECIPIENT NOR ANY OTHER ENTITY
21 WITHIN THE STATE OF COLORADO WILL HAVE CONTROL OVER THE USE OF
22 OR FURTHER DISCLOSURE OF THAT PERSONALLY IDENTIFIABLE
23 INFORMATION; AND

24 (c) THE CONTACT INFORMATION, INCLUDING THE NAME,
25 TELEPHONE NUMBER, AND E-MAIL ADDRESS, OF THE UNITED STATES
26 DEPARTMENT OF EDUCATION OFFICIAL DEMANDING THE DISCLOSURE OF
27 INFORMATION.

1 **22-15-118. Disclosure to assessment consortium or company.**

2 (1) AN EDUCATION INSTITUTION OR STATE AGENCY SHALL NOT DISCLOSE
3 EDUCATION OR TEACHER RECORDS TO ANY ASSESSMENT CONSORTIUM OF
4 WHICH THE STATE IS A MEMBER OR TO A COMPANY WITH WHICH THE STATE
5 CONTRACTS FOR THE DEVELOPMENT OR ADMINISTRATION OF ANY
6 ASSESSMENT UNLESS:

7 (a) THE RECORDS ARE TRANSMITTED IN AGGREGATED RECORD
8 FORMAT;

9 (b) THE RECORDS ARE LIMITED TO INFORMATION DIRECTLY
10 RELATED TO THE ASSESSMENT, SUCH AS A STUDENT'S GRADE LEVEL AND
11 TEST SCORES; AND

12 (c) THE TEST SCORES INCLUDED DO NOT CONTAIN ANY
13 PSYCHOLOGICAL INFORMATION OF ANY KIND.

14 **22-15-119. Destruction of data.** AN EDUCATION INSTITUTION
15 SHALL DESTROY AND REMOVE FROM ITS STUDENT DATABASE ALL
16 EDUCATION RECORDS ASSOCIATED WITH A STUDENT WITHIN FIVE YEARS
17 OF THE STUDENT'S GRADUATION OR WITHDRAWAL FROM THE EDUCATION
18 INSTITUTION; EXCEPT THAT AN EDUCATION INSTITUTION SHALL RETAIN
19 ADEQUATE RECORDS TO DEMONSTRATE ATTENDANCE, COURSES PASSED,
20 DIPLOMA OR DEGREE RECEIVED, AND CONTACT INFORMATION IN CASE IT
21 BECOMES NECESSARY TO SHOW THAT A STUDENT HAS COMPLETED
22 GRADUATION REQUIREMENTS.

23 **22-15-120. Enforcement and penalties.** (1) A VIOLATION OF ANY
24 PROVISION OF THIS ARTICLE BY AN ORGANIZATION OR ENTITY OTHER THAN
25 AN EDUCATION INSTITUTION OR STATE AGENCY IS PUNISHABLE BY A FINE
26 OF NO MORE THAN ONE THOUSAND DOLLARS. A SECOND VIOLATION BY
27 THE SAME ORGANIZATION OR ENTITY INVOLVING THE EDUCATION OR

1 TEACHER RECORDS OF THE SAME STUDENT OR TEACHER IS PUNISHABLE BY
2 A FINE OF NO MORE THAN FIVE THOUSAND DOLLARS. ANY SUBSEQUENT
3 VIOLATION BY THE SAME ORGANIZATION OR ENTITY INVOLVING THE
4 EDUCATION OR TEACHER RECORDS OF THE SAME STUDENT OR TEACHER IS
5 PUNISHABLE BY A FINE OF NO MORE THAN TEN THOUSAND DOLLARS. EACH
6 VIOLATION INVOLVING A DIFFERENT INDIVIDUAL EDUCATION OR TEACHER
7 RECORD IS CONSIDERED A SEPARATE VIOLATION FOR PURPOSES OF THIS
8 SUBSECTION (1).

9 (2) NOTHING IN THIS ARTICLE MAY BE CONSTRUED AS CREATING
10 A PRIVATE RIGHT OF ACTION AGAINST AN EDUCATION INSTITUTION OR
11 STATE AGENCY.

12 **SECTION 2. Effective date - applicability.** This act takes effect
13 July 1, 2015, and applies to academic years beginning with the 2015-16
14 academic year.

15 **SECTION 3. Safety clause.** The general assembly hereby finds,
16 determines, and declares that this act is necessary for the immediate
17 preservation of the public peace, health, and safety.