

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 14-0621.02 Jane Ritter x4342

SENATE BILL 14-204

SENATE SPONSORSHIP

Marble, Balmer, Baumgardner, Cadman, Crowder, Grantham, Lambert, Rivera, Scheffel

HOUSE SPONSORSHIP

Everett, Buck, Holbert, Humphrey, Joshi, Nordberg, Priola, Saine, Scott, Szabo, Wright

Senate Committees
Judiciary

House 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/bills summaries>.)

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

The act 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

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.

parties). The types of information that require written consent from 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 act.

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 on 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 protocol 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.

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

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

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

15 (6) "DISCLOSURE" HAS THE SAME MEANING AS SET FORTH IN THE
16 FEDERAL "FAMILY EDUCATION RIGHTS AND PRIVACY ACT" AND ITS
17 IMPLEMENTING REGULATIONS, 34 CFR, 99.3.

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

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

24 (9) "EDUCATION RECORD" HAS THE SAME MEANING AS SET FORTH
25 IN THE FEDERAL "FAMILY EDUCATION RIGHTS AND PRIVACY ACT" AND ITS
26 IMPLEMENTING REGULATIONS, 34 CFR 99.3.

27 (10) "ELIGIBLE STUDENT" HAS THE SAME MEANING AS SET FORTH

1 IN THE FEDERAL "FAMILY EDUCATION RIGHTS AND PRIVACY ACT", 34
2 CFR 99.3.

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

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

11 (13) "PARENT" HAS THE SAME MEANING AS SET FORTH IN THE
12 FEDERAL "FAMILY EDUCATION RIGHTS AND PRIVACY ACT" AND ITS
13 IMPLEMENTING REGULATIONS, 34 CFR 99.3.

14 (14) "PARTY" HAS THE SAME MEANING AS SET FORTH IN THE
15 FEDERAL "FAMILY EDUCATION RIGHTS AND PRIVACY ACT" AND ITS
16 IMPLEMENTING REGULATIONS, 34 CFR 99.3.

17 (15) "PERSONALLY IDENTIFIABLE INFORMATION" HAS THE SAME
18 MEANING AS SET FORTH IN THE FEDERAL "FAMILY EDUCATION RIGHTS
19 AND PRIVACY ACT" AND ITS IMPLEMENTING 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" AND ITS
6 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" AND ITS
15 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, EMAIL 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, EMAIL 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 ACT", 20 U.S.C. SEC. 1400 ET SEQ.;
- 16 (i) DISCIPLINE REPORTS LIMITED TO OBJECTIVE INFORMATION
17 ABOUT DISCIPLINARY INCIDENTS OR, FOR INSTITUTIONS OF HIGHER
18 EDUCATION, OBJECT INFORMATION SUFFICIENT TO PRODUCE THE TITLE IV
19 ANNUAL INCIDENT REPORT PURSUANT TO THE FEDERAL "CLERY ACT", 20
20 U.S.C. SEC. 1092 (f);
- 21 (j) JUVENILE DELINQUENCY OR OTHER CRIMINAL OR
22 CORRECTIONAL RECORDS IF NECESSARY TO MEET THE EDUCATIONAL
23 NEEDS OF THE STUDENT OR TO ENSURE STAFF OR STUDENT SAFETY,
24 PROVIDED THAT AN INSTITUTION OF HIGHER EDUCATION MAY COLLECT
25 RECORDS SUFFICIENT TO PRODUCE THE TITLE IV ANNUAL INCIDENT
26 REPORT PURSUANT TO THE FEDERAL "CLERY ACT", 20 U.S.C. SEC. 1092
27 (f), AND MAY COLLECT LAW ENFORCEMENT UNIT RECORDS IN

1 ACCORDANCE WITH 34 CFR 99.8;
2 (k) REMEDIATION DATA;
3 (l) SPECIAL EDUCATION DATA, LIMITED TO DATA REQUIRED BY THE
4 FEDERAL "INDIVIDUALS WITH DISABILITIES EDUCATION ACT", 20 U.S.C.
5 SEC. 1400 ET SEQ.;
6 (m) DEMOGRAPHIC DATA LIMITED TO THAT REQUIRED BY THE
7 FEDERAL "ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965", 20
8 U.S.C. SEC. 6301 ET SEQ., INCLUDING RACE, ECONOMIC STATUS,
9 DISABILITY STATUS, AND ENGLISH PROFICIENCY STATUS;
10 (n) STUDENT WORKFORCE INFORMATION, LIMITED TO
11 INFORMATION RELATED TO WORK-STUDY PROGRAMS IN WHICH THE
12 STUDENT PARTICIPATED FOR ACADEMIC CREDIT;
13 (o) STUDENT OR FAMILY SOCIAL SECURITY NUMBERS ONLY IF
14 NEEDED BY AN INSTITUTION OF HIGHER EDUCATION TO COMPLY WITH
15 STATE OR FEDERAL LAW;
16 (p) STUDENT OR FAMILY INCOME DATA, LIMITED TO DATA
17 REQUIRED BY LAW TO DETERMINE ELIGIBILITY TO PARTICIPATE IN OR
18 RECEIVE FINANCIAL ASSISTANCE FROM AN EDUCATION INSTITUTION; AND
19 (q) INFORMATION ABOUT EXTRACURRICULAR ACTIVITIES, LIMITED
20 TO ACTIVITIES THAT ARE SCHOOL-SPONSORED OR ENGAGED IN FOR
21 ACADEMIC CREDIT.
22 (2) UNLESS EXPRESSLY MANDATED BY FEDERAL LAW, A STATE
23 AGENCY OR EDUCATION INSTITUTION SHALL OBTAIN WRITTEN CONSENT
24 FROM PARENTS OR ELIGIBLE STUDENTS PRIOR TO COLLECTING ANY DATA
25 NOT SET FORTH IN SUBSECTION (1) OF THIS SECTION, INCLUDING BUT NOT
26 LIMITED TO:
27 (a) MEDICAL, HEALTH, AND MENTAL HEALTH RECORDS, EXCEPT AS

1 PROVIDED FOR IN PARAGRAPH (h) OF SUBSECTION (1) OF THIS SECTION;

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

4 (c) STUDENT BIOMETRIC RECORDS;

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

9 (e) ANY DATA, INCLUDING THAT RESULTING FROM STATE OR
10 NATIONAL ASSESSMENTS, THAT MEASURE PSYCHOLOGICAL RESOURCES,
11 MINDSETS, LEARNING STRATEGIES, EFFORTFUL CONTROL, ATTRIBUTES,
12 DISPOSITIONS, SOCIAL SKILLS, ATTITUDES, OR INTRAPERSONAL
13 RESOURCES;

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

15 (g) INFORMATION RELATED TO STUDENT OR FAMILY RELIGIOUS
16 AFFILIATION.

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

27 (4) A STATE AGENCY OR EDUCATION INSTITUTION SHALL NOT

1 PURSUE OR ACCEPT ANY FEDERAL OR PRIVATE GRANT THAT REQUIRES
2 COLLECTING OR REPORTING ANY TYPE OF DATA IN VIOLATION OF
3 SUBSECTION (2) OF THIS SECTION.

4 **22-15-104. Transparency of data systems.** (1) EACH STATE
5 AGENCY AND EDUCATION INSTITUTION SHALL PUBLICLY AND
6 CONSPICUOUSLY DISCLOSE ON ITS WEB SITE THE EXISTENCE AND
7 CHARACTER OF ANY PERSONALLY IDENTIFIABLE INFORMATION RELATED
8 TO EDUCATION OR TEACHER RECORDS MAINTAINED, DIRECTLY OR
9 THROUGH CONTRACTS WITH OUTSIDE ENTITIES, BY THE STATE AGENCY OR
10 EDUCATION INSTITUTION. EACH EDUCATION INSTITUTION SHALL
11 ANNUALLY NOTIFY PARENTS, ELIGIBLE STUDENTS, AND TEACHERS OF THE
12 WEB SITE POSTING. EACH STATE AGENCY SHALL PROVIDE ELECTRONIC
13 NOTIFICATION OF THE WEB SITE POSTING TO THE EDUCATION COMMITTEES
14 OF THE SENATE AND HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR
15 COMMITTEES.

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

19 (a) THE LEGAL AUTHORITY THAT AUTHORIZES THE ESTABLISHMENT
20 AND EXISTENCE OF THE DATA REPOSITORY;

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

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

25 (d) THE CATEGORIES OF RECORDS MAINTAINED IN THE DATA
26 REPOSITORY;

27 (e) EACH EXPECTED DISCLOSURE OF THE RECORDS CONTAINED IN

1 THE DATA REPOSITORY, INCLUDING THE CATEGORIES OF RECIPIENTS AND
2 THE PURPOSE OF SUCH DISCLOSURE;

3 (f) THE POLICIES AND PRACTICES OF THE STATE AGENCY OR
4 EDUCATION INSTITUTION AND ANY VENDOR OR THIRD PARTY REGARDING
5 STORAGE, ABILITY TO RETRIEVE, ACCESS CONTROLS, RETENTION, AND
6 DISPOSAL OF THE RECORDS;

7 (g) THE TITLE AND BUSINESS ADDRESS OF THE OFFICIAL
8 RESPONSIBLE FOR THE DATA REPOSITORY AND THE NAME AND BUSINESS
9 ADDRESS OF ANY CONTRACTOR OR THIRD PARTY MAINTAINING THE DATA
10 REPOSITORY FOR OR ON BEHALF OF THE STATE AGENCY OR EDUCATION
11 INSTITUTION;

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

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

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

24 (4) EACH STATE AGENCY AND EDUCATION INSTITUTION SHALL
25 NOTIFY THE GOVERNOR, THE GENERAL ASSEMBLY, AND THE STATE BOARD
26 OF EDUCATION OF ANY:

27 (a) NEW STUDENT DATA PROPOSED FOR INCLUSION IN ANY

1 STATE-MAINTAINED DATABASES, DATA SYSTEMS, OR RECORDS; AND

2 (b) CHANGES TO EXISTING DATA COLLECTIONS THAT ARE
3 REQUIRED FOR ANY REASON, INCLUDING CHANGES TO FEDERAL REPORTING
4 REQUIREMENTS MADE BY THE UNITED STATES DEPARTMENT OF
5 EDUCATION.

6 (5) A STATE AGENCY OR EDUCATION INSTITUTION AND ANY
7 SUBDIVISION OR LOCAL AGENCY SHALL USE ONLY AGGREGATE DATA IN
8 PUBLISHED REPORTS.

9 **22-15-105. Adopting or administering assessments -**
10 **limitations.** AN EDUCATION INSTITUTION SHALL NOT ADOPT OR
11 ADMINISTER ANY DISTRICT, STATE, OR NATIONAL STUDENT ASSESSMENT
12 THAT COLLECTS ANY TYPE OF PSYCHOLOGICAL DATA, INCLUDING BUT NOT
13 LIMITED TO ASSESSMENT OF NONCOGNITIVE SKILLS OR ATTRIBUTES,
14 PSYCHOLOGICAL RESOURCES, MINDSETS, LEARNING STRATEGIES,
15 EFFORTFUL CONTROL, ATTITUDES, DISPOSITIONS, SOCIAL SKILLS, OR OTHER
16 INTERPERSONAL OR INTRAPERSONAL RESOURCES.

17 **22-15-106. Collection of sensitive information - limitations.**
18 (1) A EDUCATION INSTITUTION OR STATE AGENCY SHALL NOT ADMINISTER
19 ANY STUDENT SURVEY, ASSESSMENT, ANALYSIS, EVALUATION, OR SIMILAR
20 INSTRUMENT THAT SOLICITS INFORMATION ABOUT A STUDENT OR A
21 STUDENT'S FAMILY CONCERNING ANY OF THE FOLLOWING:

22 (a) POLITICAL OR RELIGIOUS AFFILIATIONS OR BELIEFS;

23 (b) MENTAL OR PSYCHOLOGICAL ATTITUDES OR PROBLEMS,
24 PSYCHOLOGICAL RESOURCES, MINDSETS, LEARNING STRATEGIES,
25 EFFORTFUL CONTROL, ATTRIBUTES, DISPOSITIONS, SOCIAL SKILLS,
26 ATTITUDES, OR INTRAPERSONAL RESOURCES;

27 (c) SEXUAL BEHAVIOR OR ATTITUDES;

1 (d) ILLEGAL, ANTISOCIAL, SELF-INCRIMINATING, OR DEMEANING
2 BEHAVIOR;

3 (e) CRITICAL APPRAISALS OF ANOTHER INDIVIDUAL WITH WHOM A
4 STUDENT HAS A CLOSE FAMILY RELATIONSHIP;

5 (f) LEGALLY RECOGNIZED PRIVILEGED OR ANALOGOUS
6 RELATIONSHIPS, SUCH AS THOSE WITH AN ATTORNEY, PHYSICIAN, OR
7 CLERGY;

8 (g) PERSONAL OR FAMILY GUN OWNERSHIP; OR

9 (h) INCOME OR INCOME-RELATED INFORMATION EXCEPT
10 INFORMATION REQUIRED BY LAW TO DETERMINE ELIGIBILITY TO
11 PARTICIPATE IN OR RECEIVE FINANCIAL ASSISTANCE FOR AN EDUCATION
12 PROGRAM.

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

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

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

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

6 (2) (a) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS
7 SUBSECTION (2), PERSONALLY IDENTIFIABLE INFORMATION CONTAINED IN
8 AN EDUCATION OR TEACHER RECORD MAY NOT BE RELEASED TO A THIRD
9 PARTY CONTRACTOR CONDUCTING A STUDY FOR OR ON BEHALF OF A STATE
10 AGENCY OR EDUCATION INSTITUTION WITHOUT WRITTEN CONSENT OF THE
11 AFFECTED PARENT, ELIGIBLE STUDENT, OR TEACHER.

12 (b) PROVIDED THAT THE THIRD PARTY CONTRACTOR CONDUCTING
13 A STUDY MEETS ALL THE REQUIREMENTS FOR CONTRACTORS SET FORTH IN
14 SECTION 22-15-110, PERSONALLY IDENTIFIABLE INFORMATION CONTAINED
15 IN AN EDUCATION OR TEACHER RECORD MAY BE RELEASED TO THE
16 CONTRACTOR THAT IS CONDUCTING A STUDY FOR OR ON BEHALF OF A
17 STATE AGENCY OR EDUCATION INSTITUTION WITHOUT WRITTEN CONSENT
18 OF THE AFFECTED PARENT, ELIGIBLE STUDENT, OR TEACHER IN THE
19 FOLLOWING SITUATIONS:

- 20 (I) TO DEVELOP, VALIDATE, OR ADMINISTER ASSESSMENTS; OR
- 21 (II) TO ADMINISTER STUDENT FINANCIAL ASSISTANCE PROGRAMS.

22 **22-15-109. Audits, evaluations, and compliance.** IN
23 CONDUCTING AN AUDIT OR EVALUATION OF AN EDUCATION PROGRAM, OR
24 A COMPLIANCE OR ENFORCEMENT ACTIVITY IN CONNECTION WITH LEGAL
25 REQUIREMENTS RELATED TO STATE- OR DISTRICT-SUPPORTED EDUCATION
26 PROGRAMS, EDUCATION AND TEACHER RECORDS MUST BE RELEASED ONLY
27 TO AN AUTHORIZED REPRESENTATIVE OF AN EDUCATION INSTITUTION OR

1 STATE AGENCY IF THE AUDIT, EVALUATION, OR COMPLIANCE OR
2 ENFORCEMENT ACTIVITY INVOLVES ACCESS TO PERSONALLY IDENTIFIABLE
3 INFORMATION. AN INDIVIDUAL MUST NOT BE DESIGNATED AS AN
4 AUTHORIZED REPRESENTATIVE UNLESS HE OR SHE IS ON THE STAFF AND
5 UNDER THE DIRECT CONTROL OF THE DESIGNATING EDUCATION
6 INSTITUTION OR STATE AGENCY.

7 **22-15-110. Outsourcing.** (1) AN EDUCATION INSTITUTION OR
8 STATE AGENCY SHALL NOT DISCLOSE PERSONALLY IDENTIFIABLE
9 INFORMATION CONTAINED IN EDUCATION OR TEACHER RECORDS TO AN
10 OUTSIDE CONTRACTOR WITH WHICH THE EDUCATION INSTITUTION OR
11 STATE AGENCY HAS OUTSOURCED INSTITUTIONAL SERVICES OR FUNCTIONS
12 WITHOUT WRITTEN CONSENT OF AFFECTED PARENTS, ELIGIBLE STUDENTS,
13 OR TEACHERS UNLESS THE OUTSIDE CONTRACTOR:

14 (a) PERFORMS AN INSTITUTIONAL SERVICE OR FUNCTION FOR
15 WHICH THE EDUCATION INSTITUTION OR STATE AGENCY WOULD
16 OTHERWISE USE ITS OWN EMPLOYEES;

17 (b) IS UNDER THE DIRECT CONTROL OF THE EDUCATION
18 INSTITUTION OR STATE AGENCY WITH RESPECT TO THE USE AND
19 MAINTENANCE OF EDUCATION OR TEACHER RECORDS;

20 (c) LIMITS INTERNAL ACCESS TO EDUCATION OR TEACHER RECORDS
21 TO THOSE INDIVIDUALS WHO REQUIRE ACCESS TO THOSE RECORDS FOR
22 COMPLETION OF THE CONTRACT;

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

25 (e) DOES NOT DISCLOSE ANY PERSONALLY IDENTIFIABLE
26 INFORMATION CONTAINED IN EDUCATION OR TEACHER RECORDS TO ANY
27 OTHER PARTY:

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

3 (II) UNLESS THE DISCLOSURE IS REQUIRED BY LAW OR COURT
4 ORDER AND THE CONTRACTOR PROVIDES A NOTICE OF THE DISCLOSURE TO
5 THE EDUCATION INSTITUTION OR STATE AGENCY THAT INITIALLY
6 PROVIDED THE INFORMATION. NOTICE MUST OCCUR NO LATER THAN THE
7 TIME THE INFORMATION IS DISCLOSED, UNLESS PROVIDING SAID NOTICE IS
8 EXPRESSLY PROHIBITED BY LAW OR COURT ORDER.

9 (f) MAINTAINS REASONABLE ADMINISTRATIVE, TECHNICAL, AND
10 PHYSICAL SAFEGUARDS TO PROTECT THE SECURITY, CONFIDENTIALITY,
11 AND INTEGRITY OF THE PERSONALLY IDENTIFIABLE INFORMATION IN ITS
12 CUSTODY;

13 (g) USES ENCRYPTION TECHNOLOGIES TO PROTECT DATA FROM
14 UNAUTHORIZED DISCLOSURE WHILE IN MOTION OR IN ITS CUSTODY. THE
15 TECHNOLOGY OR METHODOLOGY MUST BE OF THE TYPE SPECIFIED BY THE
16 SECRETARY OF THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN
17 SERVICES IN GUIDANCE ISSUED PURSUANT TO PUB.L. 111-5, SECTION
18 13402 (H) (2);

19 (h) HAS SUFFICIENT ADMINISTRATIVE AND TECHNICAL
20 PROCEDURES IN PLACE TO CONTINUOUSLY MONITOR THE SECURITY OF
21 PERSONALLY IDENTIFIABLE INFORMATION CONTAINED IN EDUCATION AND
22 TEACHER RECORDS IN ITS CUSTODY;

23 (i) CONDUCTS A SECURITY AUDIT ANNUALLY AND PROVIDES THE
24 RESULTS OF THE AUDIT TO EACH EDUCATION INSTITUTION AND STATE
25 AGENCY FROM WHICH IT HAS OBTAINED EDUCATION OR TEACHER
26 RECORDS;

27 (j) PRIOR TO THE INITIAL RECEIPT OF EDUCATION AND TEACHER

1 RECORDS, PROVIDES THE EDUCATION INSTITUTION OR STATE AGENCY WITH
2 A BREACH REMEDIATION PLAN THAT IS ACCEPTABLE TO THE EDUCATION
3 INSTITUTION OR STATE AGENCY;

4 (k) REPORTS IMMEDIATELY ALL SUSPECTED SECURITY BREACHES
5 TO THE EDUCATION INSTITUTION OR STATE AGENCY THAT PROVIDED THE
6 EDUCATION OR TEACHER RECORDS;

7 (l) REPORTS IMMEDIATELY ALL ACTUAL SECURITY BREACHES TO
8 THE EDUCATION INSTITUTION, STATE AGENCY, AND AFFECTED
9 INDIVIDUALS;

10 (m) IN THE EVENT OF A SECURITY BREACH OR UNAUTHORIZED
11 DISCLOSURE OF PERSONALLY IDENTIFIABLE INFORMATION CONTAINED IN
12 EDUCATION OR TEACHER RECORDS, PAYS ALL COSTS AND LIABILITIES
13 INCURRED BY THE EDUCATION INSTITUTION OR STATE AGENCY THAT ARE
14 RELATED TO THE SECURITY BREACH OR UNAUTHORIZED DISCLOSURE,
15 INCLUDING BUT NOT LIMITED TO THE COSTS OF RESPONDING TO INQUIRIES,
16 NOTIFYING AFFECTED INDIVIDUALS, MITIGATING THE EFFECTS OF THE
17 BREACH OR DISCLOSURE, AND INVESTIGATING THE CAUSE OR
18 CONSEQUENCES OF THE BREACH OR DISCLOSURE; AND

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

22 **22-15-111. Security breach or unauthorized disclosure -**
23 **required actions.** (1) IN THE EVENT OF A SECURITY BREACH OR
24 UNAUTHORIZED DISCLOSURE OF PERSONALLY IDENTIFIABLE INFORMATION
25 CONTAINED IN EDUCATION OR TEACHER RECORDS, WHETHER BY AN
26 EDUCATION INSTITUTION, STATE AGENCY, OR THIRD PARTY CONTRACTOR,
27 THE EDUCATION INSTITUTION, STATE AGENCY, OR THIRD PARTY

1 CONTRACTOR SHALL:

2 (a) IMMEDIATELY NOTIFY THE INDIVIDUALS AFFECTED BY THE
3 BREACH OR DISCLOSURE;

4 (b) REPORT THE BREACH OR DISCLOSURE TO THE FAMILY POLICY
5 COMPLIANCE OFFICE OF THE UNITED STATES DEPARTMENT OF EDUCATION;
6 AND

7 (c) INVESTIGATE THE CAUSES AND CONSEQUENCES OF THE BREACH
8 OR DISCLOSURE.

9 **22-15-112. Prohibitions on commercial use.** (1) PERSONALLY
10 IDENTIFIABLE INFORMATION CONTAINED IN EDUCATION OR TEACHER
11 RECORDS MUST NOT BE DISCLOSED TO ANY ENTITY FOR COMMERCIAL USE,
12 INCLUDING BUT NOT LIMITED TO MARKETING PRODUCTS OR SERVICES,
13 COMPILATION OF LISTS FOR SALE OR RENTAL, DEVELOPMENT OF PRODUCTS
14 OR SERVICES, OR CREATION OF INDIVIDUAL, HOUSEHOLD, OR GROUP
15 PROFILES.

16 (2) A CLOUD-COMPUTING SERVICE PROVIDER THAT PERFORMS
17 SERVICES FOR AN EDUCATION INSTITUTION OR STATE AGENCY IS
18 PROHIBITED FROM USING INFORMATION FROM EDUCATION OR TEACHER
19 RECORDS FOR ANY SECONDARY PURPOSE THAT MIGHT BENEFIT THE
20 CLOUD-COMPUTING SERVICE PROVIDER OR ANY OTHER THIRD PARTY,
21 INCLUDING BUT NOT LIMITED TO ON-LINE BEHAVIORAL ADVERTISING,
22 CREATING OR CORRECTING AN INDIVIDUAL OR HOUSEHOLD PROFILE
23 PRIMARILY FOR THE CLOUD-COMPUTING SERVICE PROVIDER'S BENEFIT,
24 SELLING THE DATA FOR ANY COMMERCIAL PURPOSE, OR ANY OTHER
25 SIMILAR COMMERCIAL FOR-PROFIT ACTIVITY. HOWEVER, A
26 CLOUD-COMPUTING SERVICE PROVIDER MAY PROCESS OR MONITOR
27 STUDENT DATA SOLELY TO PROVIDE SUCH SERVICE TO AN EDUCATION

1 INSTITUTION OR STATE AGENCY AND TO MAINTAIN THE INTEGRITY OF SAID
2 SERVICE.

3 (3) A CLOUD-COMPUTING SERVICE PROVIDER THAT ENTERS INTO
4 AN AGREEMENT TO PROVIDE CLOUD-COMPUTING SERVICES TO AN
5 EDUCATION INSTITUTION OR STATE AGENCY SHALL CERTIFY IN WRITING
6 THAT IT WILL COMPLY WITH THE TERMS AND CONDITIONS SET FORTH IN
7 SECTION 22-15-110 AND THAT THE EDUCATION INSTITUTION OR STATE
8 AGENCY MAINTAINS OWNERSHIP OF ALL EDUCATION AND TEACHER
9 RECORDS.

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

13 **22-15-113. Predictive modeling prohibited.** STUDENT DATA
14 MUST NOT BE USED FOR PREDICTIVE MODELING TO DETECT BEHAVIORS,
15 BELIEFS, OR VALUE SYSTEMS, OR FOR PREDICTING OR FORECASTING
16 STUDENT OUTCOMES.

17 **22-15-114. Video monitoring - prohibition.** VIDEOMONITORING
18 OF CLASSROOMS FOR ANY PURPOSE IS PROHIBITED, INCLUDING FOR
19 TEACHER EVALUATIONS, WITHOUT THE APPROVAL OF THE SCHOOL
20 DISTRICT BOARD OF EDUCATION AFTER PUBLIC HEARINGS AND WRITTEN
21 CONSENT OF THE TEACHER, ALL ELIGIBLE STUDENTS, AND PARENTS OF ALL
22 STUDENTS IN THE CLASSROOM.

23 **22-15-115. Interagency disclosure prohibited.** PERSONALLY
24 IDENTIFIABLE INFORMATION CONTAINED IN EDUCATION OR TEACHER
25 RECORDS MUST NOT BE DISCLOSED TO A NONEDUCATION GOVERNMENT
26 AGENCY, INCLUDING BUT NOT LIMITED TO ANY ENTITY THAT INTENDS TO
27 USE OR DISCLOSE THE INFORMATION OR DATA FOR THE PURPOSE OF

1 WORKFORCE DEVELOPMENT OR ECONOMIC PLANNING.

2 **22-15-116. Interstate disclosure - limitations.** (1) EXCEPT AS
3 OTHERWISE PROVIDED IN THIS ARTICLE, PERSONALLY IDENTIFIABLE
4 INFORMATION CONTAINED IN EDUCATION AND TEACHER RECORDS MUST
5 NOT BE DISCLOSED TO ANY ENTITY OUTSIDE THE STATE; EXCEPT THAT
6 DISCLOSURE MAY BE MADE:

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

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

12 (c) WHEN A STUDENT IS CLASSIFIED AS A MIGRANT FOR FEDERAL
13 REPORTING PURPOSES.

14 **22-15-117. Disclosure to federal government - limitations.**

15 (1) PERSONALLY IDENTIFIABLE INFORMATION CONTAINED IN EDUCATION
16 OR TEACHER RECORDS MUST NOT BE DISCLOSED TO ANY FEDERAL AGENCY
17 UNLESS:

18 (a) SUCH DISCLOSURE IS REQUIRED BY THE UNITED STATES
19 DEPARTMENT OF EDUCATION AS A CONDITION OF RECEIVING A FEDERAL
20 EDUCATION GRANT;

21 (b) THE UNITED STATES DEPARTMENT OF EDUCATION AGREES IN
22 WRITING TO USE THE INFORMATION FROM THE EDUCATION OR TEACHER
23 RECORDS ONLY TO EVALUATE THE PROGRAM OR PROGRAMS FUNDED BY A
24 GRANT;

25 (c) THE UNITED STATES DEPARTMENT OF EDUCATION AGREES IN
26 WRITING THAT THE INFORMATION WILL NOT BE USED FOR ANY RESEARCH
27 BEYOND THAT RELATED TO THE EVALUATION OF THE PROGRAM OR

1 PROGRAMS FUNDED BY THE GRANT, UNLESS THE PARENT, ELIGIBLE
2 STUDENT, OR TEACHER WHOSE INFORMATION WILL BE USED PROVIDES
3 WRITTEN CONSENT;

4 (d) THE UNITED STATES DEPARTMENT OF EDUCATION AGREES IN
5 WRITING TO DESTROY THE INFORMATION UPON COMPLETION OF THE
6 EVALUATION OF THE PROGRAM OR PROGRAMS FOR WHICH THE
7 INFORMATION WAS COMPILED; AND

8 (e) THE GRANT OR PROGRAM IN CONNECTION WITH WHICH THE
9 INFORMATION IS REQUIRED IS ONE EXPLICITLY AUTHORIZED BY FEDERAL
10 LAW OR RULE.

11 (2) IF THE UNITED STATES DEPARTMENT OF EDUCATION REQUIRES,
12 AS A CONDITION OF MAKING A FEDERAL EDUCATION GRANT, THAT THE
13 GRANT RECIPIENT DISCLOSE EDUCATION OR TEACHER RECORDS UNDER
14 CIRCUMSTANCES THAT DO NOT COMPLY WITH SUBSECTION (1) OF THIS
15 SECTION, THE GRANT RECIPIENT SHALL OBTAIN WRITTEN CONSENT FROM
16 THE PARENTS OF EVERY STUDENT, ELIGIBLE STUDENTS, OR TEACHERS
17 WHOSE INFORMATION WILL BE DISCLOSED.

18 (3) IF THE UNITED STATES DEPARTMENT OF EDUCATION DEMANDS
19 PERSONALLY IDENTIFIABLE INFORMATION CONTAINED IN EDUCATION OR
20 TEACHER RECORDS WITHOUT THE WRITTEN CONSENT OF AFFECTED
21 PARENTS, ELIGIBLE STUDENTS, OR TEACHERS, THE GRANT RECIPIENT SHALL
22 PROVIDE WRITTEN NOTIFICATION TO SAID PARENTS, ELIGIBLE STUDENTS,
23 AND TEACHERS OF THE FOLLOWING:

24 (a) THAT THE GRANT RECIPIENT HAS BEEN REQUIRED TO DISCLOSE
25 THE PERSONALLY IDENTIFIABLE INFORMATION CONTAINED IN THE
26 EDUCATION OR TEACHER RECORDS TO THE UNITED STATES DEPARTMENT
27 OF EDUCATION;

1 (b) THAT NEITHER THE GRANT RECIPIENT NOR ANY OTHER ENTITY
2 WITHIN THE STATE OF COLORADO WILL HAVE CONTROL OVER THE USE OF
3 OR FURTHER DISCLOSURE OF THAT PERSONALLY IDENTIFIABLE
4 INFORMATION; AND

5 (c) THE CONTACT INFORMATION, INCLUDING THE NAME,
6 TELEPHONE NUMBER, AND EMAIL ADDRESS, OF THE UNITED STATES
7 DEPARTMENT OF EDUCATION OFFICIAL DEMANDING THE DISCLOSURE OF
8 INFORMATION.

9 **22-15-118. Disclosure to assessment consortium or company.**

10 (1) AN EDUCATION INSTITUTION OR STATE AGENCY SHALL NOT DISCLOSE
11 EDUCATION OR TEACHER RECORDS TO ANY ASSESSMENT CONSORTIUM OF
12 WHICH THE STATE IS A MEMBER OR TO A COMPANY WITH WHICH THE STATE
13 CONTRACTS FOR THE DEVELOPMENT OR ADMINISTRATION OF ANY
14 ASSESSMENT UNLESS:

15 (a) THE RECORDS ARE TRANSMITTED IN AGGREGATED RECORD
16 FORMAT;

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

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

22 **22-15-119. Destruction of data.** AN EDUCATION INSTITUTION
23 SHALL DESTROY AND REMOVE FROM ITS STUDENT DATABASE ALL
24 EDUCATION RECORDS ASSOCIATED WITH A STUDENT WITHIN FIVE YEARS
25 OF THE STUDENT'S GRADUATION OR WITHDRAWAL FROM THE EDUCATION
26 INSTITUTION; EXCEPT THAT AN EDUCATION INSTITUTION SHALL RETAIN
27 ADEQUATE RECORDS TO DEMONSTRATE ATTENDANCE, COURSES PASSED,

1 DIPLOMA OR DEGREE RECEIVED, AND CONTACT INFORMATION, IN CASE IT
2 BECOMES NECESSARY TO SHOW THAT A STUDENT HAS COMPLETED
3 GRADUATION REQUIREMENTS.

4 **22-15-120. Enforcement and penalties.** (1) A VIOLATION OF ANY
5 PROVISION OF THIS ARTICLE BY AN ORGANIZATION OR ENTITY OTHER THAN
6 AN EDUCATION INSTITUTION OR STATE AGENCY IS PUNISHABLE BY A FINE
7 OF NO MORE THAN ONE THOUSAND DOLLARS. A SECOND VIOLATION BY
8 THE SAME ORGANIZATION OR ENTITY INVOLVING THE EDUCATION OR
9 TEACHER RECORDS OF THE SAME STUDENT OR TEACHER IS PUNISHABLE BY
10 A FINE OF NO MORE THAN FIVE THOUSAND DOLLARS. ANY SUBSEQUENT
11 VIOLATION BY THE SAME ORGANIZATION OR ENTITY INVOLVING THE
12 EDUCATION OR TEACHER RECORDS OF THE SAME STUDENT OR TEACHER IS
13 PUNISHABLE BY A FINE OF NO MORE THAN TEN THOUSAND DOLLARS. EACH
14 VIOLATION INVOLVING A DIFFERENT INDIVIDUAL EDUCATION OR TEACHER
15 RECORD IS CONSIDERED A SEPARATE VIOLATION FOR PURPOSES OF THIS
16 SUBSECTION (1).

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

20 **SECTION 2. Effective date - applicability.** This act takes effect
21 July 1, 2014, and applies to academic years beginning with the 2014-15
22 academic year.

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