

SENATE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

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Date

March 5, 2015

Committee on Education.

After consideration on the merits, the Committee recommends the following:

SB15-173 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

- 1 Amend printed bill, strike everything below the enacting clause and  
2 substitute:
- 3 "SECTION 1. In Colorado Revised Statutes, **amend** 22-2-301 as  
4 follows:
- 5 **22-2-301. Short title.** This part 3 shall be known and may be cited  
6 as the "Data Reporting and ~~Technology~~ PROTECTION Act".
- 7 **SECTION 2.** In Colorado Revised Statutes, **add** 22-2-310 as  
8 follows:
- 9 **22-2-310. Student data protection - accountability and**  
10 **transparency - legislative declaration - definitions - prohibited actions**  
11 **- remedies.** (1) THE GENERAL ASSEMBLY FINDS THAT ALTHOUGH THERE  
12 ARE FEDERAL STATUTES LIMITING THE USE OF STUDENT DATA COLLECTED  
13 BY SCHOOLS, THESE STATUTES PRIMARILY GOVERN THE ACTIONS OF  
14 SCHOOLS AND GOVERNMENT ENTITIES AND HAVE LESS APPLICABILITY TO  
15 THIRD-PARTY VENDORS. THE EFFECTIVE USE OF STUDENT DATA TO  
16 IMPROVE LEARNING REQUIRES A FRAMEWORK OF TRUST AROUND ITS USE.
- 17 (2) IT IS THEREFORE THE INTENT OF THE GENERAL ASSEMBLY TO  
18 ACHIEVE THE FOLLOWING PURPOSES:
- 19 (a) TO ENSURE THE PRIVACY OF ALL PUBLIC SCHOOL STUDENTS BY  
20 RESTRICTING THIRD-PARTY VENDORS FROM SHARING, MINING, SELLING, OR  
21 USING PERSONALLY IDENTIFIABLE DATA COLLECTED BY SCHOOLS AND  
22 SCHOOL DISTRICTS; AND
- 23 (b) TO PROHIBIT AN OPERATOR OF AN INTERNET WEB SITE, ON-LINE  
24 SERVICE, ON-LINE APPLICATION, OR MOBILE APPLICATION FROM USING,  
25 DISCLOSING, OR COMPILING PERSONAL INFORMATION OF A PUBLIC SCHOOL  
26 STUDENT FOR THE PURPOSE OF MARKETING OR ADVERTISING.
- 27 (3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE

1 REQUIRES:

2 (a) "COVERED INFORMATION" MEANS PERSONALLY IDENTIFIABLE

3 INFORMATION OR MATERIALS, IN ANY MEDIA OR FORMAT THAT IS:

4 (I) CREATED OR PROVIDED BY A STUDENT, OR THE STUDENT'S

5 PARENT OR LEGAL GUARDIAN, TO AN OPERATOR IN THE COURSE OF THE

6 STUDENT'S, PARENT'S, OR LEGAL GUARDIAN'S USE OF THE OPERATOR'S WEB

7 SITE, SERVICE, OR APPLICATION FOR PUBLIC SCHOOL PURPOSES;

8 (II) CREATED OR PROVIDED BY AN EMPLOYEE OR AGENT OF THE

9 PUBLIC SCHOOL, SCHOOL DISTRICT, CHARTER SCHOOL INSTITUTE, LOCAL

10 EDUCATION AGENCY, OR DEPARTMENT TO AN OPERATOR; OR

11 (III) GATHERED BY AN OPERATOR THROUGH THE OPERATION OF A

12 WEB SITE, ON-LINE SERVICE, OR ON-LINE APPLICATION THAT IS USED

13 PRIMARILY FOR PUBLIC SCHOOL PURPOSES, WAS DESIGNED AND MARKETED

14 FOR PUBLIC SCHOOL PURPOSES, AND IS DESCRIPTIVE OF OR OTHERWISE

15 IDENTIFIES A STUDENT. THIS INCLUDES, BUT IS NOT LIMITED TO:

16 (A) INFORMATION IN THE STUDENT'S EDUCATIONAL RECORD OR

17 ELECTRONIC MAIL;

18 (B) STUDENT DATA;

19 (C) FIRST AND LAST NAME, HOME ADDRESS, TELEPHONE NUMBER,

20 ELECTRONIC MAIL ADDRESS, OR ANY OTHER INFORMATION THAT ALLOWS

21 PHYSICAL OR ON-LINE CONTACT; OR

22 (D) DISCIPLINE OR CRIMINAL RECORDS, JUVENILE DEPENDENCY

23 RECORDS, MEDICAL OR HEALTH RECORDS, SOCIAL SECURITY NUMBER,

24 BIOMETRIC INFORMATION, DISABILITIES, SOCIOECONOMIC INFORMATION,

25 POLITICAL AFFILIATIONS, RELIGIOUS INFORMATION, TEXT MESSAGES,

26 DOCUMENTS, STUDENT IDENTIFIERS, SEARCH ACTIVITY, PHOTOS, VOICE

27 RECORDINGS, FOOD PURCHASES, OR GEOLOCATION INFORMATION.

28 (b) "EDUCATION RECORD" HAS THE SAME MEANING AS DEFINED IN

29 THE FEDERAL "FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF

30 1974", AS AMENDED, 20 U.S.C. SEC. 1232g. "EDUCATION RECORD"

31 INCLUDES AN INDIVIDUALIZED EDUCATION PROGRAM.

32 (c) "OPERATOR" MEANS ANY OPERATOR OF AN INTERNET WEB SITE;

33 AN ON-LINE SERVICE, INCLUDING CLOUD COMPUTING SERVICES; AN

34 ON-LINE APPLICATION; OR A MOBILE APPLICATION WITH ACTUAL

35 KNOWLEDGE THAT THE SITE, SERVICE, OR APPLICATION IS USED PRIMARILY

36 FOR PUBLIC SCHOOL PURPOSES AND WAS DESIGNED AND MARKETED FOR

37 PUBLIC SCHOOL PURPOSES. "OPERATOR" DOES NOT INCLUDE A SCHOOL, A

38 SCHOOL DISTRICT, THE CHARTER SCHOOL INSTITUTE, THE DEPARTMENT,

39 OR THE STATE BOARD.

40 (d) "PERSONALLY IDENTIFIABLE INFORMATION" HAS THE SAME

41 MEANING AS DEFINED IN THE FEDERAL "FAMILY EDUCATIONAL RIGHTS

42 AND PRIVACY ACT OF 1974", AS AMENDED, 20 U.S.C. SEC. 1232g.

43 (e) "PUBLIC SCHOOL PURPOSE" MEANS ANY PURPOSE THAT

1 CUSTOMARILY TAKES PLACE AT THE DIRECTION OF A PUBLIC SCHOOL,  
2 TEACHER, SCHOOL DISTRICT, OR CHARTER SCHOOL, OR AIDS IN THE  
3 ADMINISTRATION OF SCHOOL ACTIVITIES, INCLUDING, BUT NOT LIMITED  
4 TO, INSTRUCTION IN THE CLASSROOM OR AT HOME, ADMINISTRATIVE  
5 ACTIVITIES, AND COLLABORATION BETWEEN STUDENTS, SCHOOL  
6 PERSONNEL, OR PARENTS, OR ANY OTHER PURPOSE THAT IS FOR THE USE  
7 AND BENEFIT OF A PUBLIC SCHOOL OR CHARTER SCHOOL.

8 (f) "TARGETED ADVERTISING" MEANS DELIVERING  
9 ADVERTISEMENTS TO A STUDENT WHERE THE ADVERTISEMENT IS  
10 SELECTED BASED ON INFORMATION OBTAINED OR INFERRED FROM THAT  
11 STUDENT'S ON-LINE VIEWING BEHAVIOR, USAGE OF APPLICATIONS, OR  
12 COVERED INFORMATION. "TARGETED ADVERTISING" DOES NOT INCLUDE  
13 USE OF SEARCH ENGINES OR RECOMMENDATION ENGINES, CONTEXTUAL  
14 ADVERTISING, RUN OF NETWORK ADVERTISING, OR ADAPTIVE OR  
15 INDIVIDUALIZED LEARNING.

16 (4) AN OPERATOR SHALL NOT KNOWINGLY ENGAGE IN ANY OF THE  
17 FOLLOWING ACTIVITIES WITH RESPECT TO ITS WEB SITE, SERVICE, OR  
18 APPLICATION:

19 (a) (I) ENGAGE IN TARGETED ADVERTISING ON THE OPERATOR'S  
20 WEB SITE, SERVICE, OR APPLICATION; OR

21 (II) TARGET ADVERTISING ON ANY OTHER WEB SITE, SERVICE, OR  
22 APPLICATION WHEN THE TARGETING OF THE ADVERTISING IS BASED UPON  
23 ANY INFORMATION, INCLUDING COVERED INFORMATION AND PERSISTENT  
24 UNIQUE IDENTIFIERS, THAT THE OPERATOR HAS ACQUIRED BECAUSE OF  
25 THE USE OF THAT OPERATOR'S WEB SITE, SERVICE, OR APPLICATION;

26 (b) USE INFORMATION, INCLUDING PERSISTENT UNIQUE  
27 IDENTIFIERS, CREATED OR GATHERED BY THE OPERATOR'S WEB SITE,  
28 SERVICE, OR APPLICATION, TO AMASS A PROFILE ABOUT A PUBLIC SCHOOL  
29 STUDENT, EXCEPT IN FURTHERANCE OF A PUBLIC SCHOOL PURPOSE.  
30 AMASSING A PROFILE DOES NOT INCLUDE COLLECTION AND RETENTION OF  
31 ACCOUNT RECORDS OR INFORMATION THAT REMAINS UNDER THE CONTROL  
32 OF THE STUDENT, PARENT, SCHOOL, OR SCHOOL DISTRICT.

33 (c) SELL A STUDENT'S INFORMATION, INCLUDING COVERED  
34 INFORMATION. THIS PROHIBITION DOES NOT APPLY TO THE PURCHASE,  
35 MERGER, OR OTHER TYPE OF ACQUISITION OF AN OPERATOR BY ANOTHER  
36 ENTITY, PROVIDED THAT THE OPERATOR OR SUCCESSOR ENTITY  
37 CONTINUES TO COMPLY WITH THE PROVISIONS OF THIS SECTION  
38 CONCERNING PREVIOUSLY ACQUIRED STUDENT INFORMATION.

39 (d) DISCLOSE COVERED INFORMATION UNLESS THE DISCLOSURE IS  
40 MADE, TO THE EXTENT REASONABLY NECESSARY:

41 (I) IN FURTHERANCE OF THE PUBLIC SCHOOL PURPOSE OF THE WEB

1 SITE, SERVICE, OR APPLICATION, PROVIDED THE RECIPIENT OF THE  
2 COVERED INFORMATION DISCLOSED PURSUANT TO THIS PARAGRAPH (d):  
3 (A) DOES NOT FURTHER DISCLOSE THE COVERED INFORMATION  
4 UNLESS DONE TO ALLOW OR IMPROVE OPERABILITY AND FUNCTIONALITY  
5 WITHIN THAT STUDENT'S CLASSROOM OR SCHOOL; AND  
6 (B) IS LEGALLY REQUIRED TO COMPLY WITH SUBSECTION (6) OF  
7 THIS SECTION;  
8 (II) TO PROTECT THE SECURITY OR INTEGRITY OF ITS WEB SITE,  
9 SERVICE, OR APPLICATION;  
10 (III) TO TAKE PRECAUTIONS AGAINST LIABILITY;  
11 (IV) TO RESPOND TO THE JUDICIAL PROCESS;  
12 (V) TO THE EXTENT PERMITTED UNDER OTHER PROVISIONS OF  
13 LAW, TO PROVIDE INFORMATION TO LAW ENFORCEMENT AGENCIES OR FOR  
14 AN INVESTIGATION ON A MATTER RELATED TO PUBLIC SAFETY; OR  
15 (VI) TO A SERVICE PROVIDER, PROVIDED THAT THE OPERATOR  
16 CONTRACTUALLY:  
17 (A) PROHIBITS THE SERVICE PROVIDER FROM USING ANY COVERED  
18 INFORMATION FOR ANY PURPOSE OTHER THAN PROVIDING THE  
19 CONTRACTED SERVICE TO, OR ON BEHALF OF, THE OPERATOR;  
20 (B) PROHIBITS THE SERVICE PROVIDER FROM DISCLOSING ANY  
21 COVERED INFORMATION PROVIDED BY THE OPERATOR WITH SUBSEQUENT  
22 THIRD PARTIES, EXCEPT TO THE EXTENT NECESSARY TO CARRY OUT  
23 LEGITIMATE EDUCATIONAL FUNCTIONS DELEGATED TO IT BY THE AGENCY  
24 OR INSTITUTION; AND  
25 (C) REQUIRES THE SERVICE PROVIDER TO IMPLEMENT AND  
26 MAINTAIN REASONABLE SECURITY PROCEDURES AND PRACTICES AS  
27 PROVIDED FOR IN SUBSECTION (6) OF THIS SECTION.  
28 (5) NOTHING IN SUBSECTION (4) OF THIS SECTION SHALL BE  
29 CONSTRUED TO PROHIBIT THE OPERATOR'S USE OF INFORMATION FOR  
30 MAINTAINING, DEVELOPING, SUPPORTING, IMPROVING, OR DIAGNOSING  
31 THE OPERATOR'S WEB SITE, SERVICE, OR APPLICATION.  
32 (6) AN OPERATOR SHALL:  
33 (a) IMPLEMENT AND MAINTAIN REASONABLE SECURITY  
34 PROCEDURES AND PRACTICES THAT, AT A MINIMUM, MEET THE  
35 REQUIREMENTS DEVELOPED BY THE DEPARTMENT AND STATE BOARD  
36 PURSUANT TO SECTION 22-2-309 AND THAT ARE APPROPRIATE TO THE  
37 NATURE OF THE COVERED INFORMATION AND PROTECT THAT  
38 INFORMATION FROM UNAUTHORIZED ACCESS, DESTRUCTION, USE,  
39 MODIFICATION, OR DISCLOSURE;  
40 (b) DELETE A STUDENT'S COVERED INFORMATION IF THE PUBLIC  
41 SCHOOL, SCHOOL DISTRICT, CHARTER SCHOOL, OR CHARTER SCHOOL  
42 INSTITUTE REQUESTS SUCH DELETION OF ANY DATA UNDER THE CONTROL

1 OF THE PUBLIC SCHOOL, SCHOOL DISTRICT, CHARTER SCHOOL OR CHARTER  
2 SCHOOL INSTITUTE;

3 (c) PUBLICLY AND CONSPICUOUSLY POST:

4 (I) THE NAME, CONTACT INFORMATION, AND LOCATION OF ANY  
5 DATA REPOSITORY WHERE ANY COVERED INFORMATION WOULD BE  
6 MAINTAINED BY THE OPERATOR, SERVICE PROVIDER, OR OTHER THIRD  
7 PARTY TO WHOM THE OPERATOR DISCLOSED THE COVERED INFORMATION;

8 (II) THE PRINCIPAL PURPOSE OR PURPOSES FOR WHICH THE  
9 COVERED INFORMATION IS INTENDED TO BE USED;

10 (III) A DATA DICTIONARY OF THE COVERED INFORMATION OR ANY  
11 OTHER INFORMATION THAT IS COLLECTED OR MAINTAINED BY THE  
12 OPERATOR, SERVICE PROVIDER, OR OTHER THIRD PARTY TO WHOM THE  
13 OPERATOR DISCLOSED COVERED INFORMATION;

14 (IV) THE PROCESS BY WHICH COVERED INFORMATION IS  
15 COLLECTED;

16 (V) THE OPERATOR'S POLICIES AND PRACTICES REGARDING  
17 STORAGE, RETRIEVABILITY, ACCESS CONTROLS, RETENTION, AND DISPOSAL  
18 OF COVERED INFORMATION;

19 (VI) DATE OF ANY TRANSFER, MERGE, OR SHARE OF COVERED  
20 INFORMATION; AND

21 (VII) THE NAME AND CONTACT INFORMATION OF THE SOURCE AND  
22 CONTENTS OF ANY DATA SETS MERGED WITH ANY COVERED INFORMATION  
23 MAINTAINED BY THE OPERATOR; AND

24 (d) RETAIN PERSONAL INFORMATION COLLECTED ON-LINE FROM  
25 A STUDENT FOR ONLY AS LONG AS IS REASONABLY NECESSARY TO FULFILL  
26 THE PURPOSE FOR WHICH THE INFORMATION WAS COLLECTED, BUT IN NO  
27 INSTANCE LONGER THAN THREE YEARS. THE OPERATOR SHALL DELETE  
28 SUCH INFORMATION USING REASONABLE MEASURES TO PROTECT AGAINST  
29 UNAUTHORIZED ACCESS TO OR USE OF THE INFORMATION IN CONNECTION  
30 WITH ITS DELETION.

31 (7) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (d) OF  
32 SUBSECTION (4) OF THIS SECTION, AN OPERATOR MAY DISCLOSE COVERED  
33 INFORMATION OF A STUDENT UNDER THE FOLLOWING CIRCUMSTANCES, AS  
34 LONG AS PARAGRAPHS (a) TO (c) OF SUBSECTION (4) OF THIS SECTION,  
35 INCLUSIVE, ARE NOT VIOLATED:

36 (a) IF OTHER PROVISIONS OF STATE OR FEDERAL LAW REQUIRE THE  
37 OPERATOR TO DISCLOSE THE COVERED INFORMATION AND THE OPERATOR  
38 COMPLIES WITH THE APPLICABLE REQUIREMENTS OF STATE AND FEDERAL  
39 LAW IN PROTECTING AND DISCLOSING THE INFORMATION;

40 (b) FOR LEGITIMATE RESEARCH PURPOSES APPROVED BY THE  
41 SCHOOL DISTRICT OR THE CHARTER SCHOOL INSTITUTE:

42 (I) AS REQUIRED BY STATE OR FEDERAL LAW AND SUBJECT TO THE

1 RESTRICTIONS UNDER APPLICABLE STATE AND FEDERAL LAW; OR  
2 (II) AS ALLOWED BY STATE OR FEDERAL LAW AND UNDER THE  
3 DIRECTION OF A PUBLIC SCHOOL, SCHOOL DISTRICT, CHARTER SCHOOL,  
4 CHARTER SCHOOL INSTITUTE, OR THE DEPARTMENT, IF NO COVERED  
5 INFORMATION IS USED FOR ANY PURPOSE IN FURTHERANCE OF  
6 ADVERTISING OR TO AMASS A PROFILE ON A STUDENT FOR A PURPOSE  
7 OTHER THAN A PUBLIC SCHOOL PURPOSE; AND  
8 (c) TO A STATE OR LOCAL EDUCATION AGENCY, INCLUDING PUBLIC  
9 SCHOOLS, SCHOOL DISTRICTS, CHARTER SCHOOLS, OR THE CHARTER  
10 SCHOOL INSTITUTE FOR A PUBLIC SCHOOL PURPOSE, AS PERMITTED BY  
11 STATE OR FEDERAL LAW.  
12 (8) NOTHING IN THIS SECTION PROHIBITS AN OPERATOR FROM  
13 USING DEIDENTIFIED COVERED INFORMATION AS FOLLOWS:  
14 (a) WITHIN THE OPERATOR'S WEB SITE, SERVICE, OR APPLICATION,  
15 OR OTHER WEB SITES, SERVICES, OR APPLICATIONS OWNED BY THE  
16 OPERATOR, TO IMPROVE ITS EDUCATIONAL PRODUCTS; OR  
17 (b) TO DEMONSTRATE THE EFFECTIVENESS OF THE OPERATOR'S  
18 PRODUCTS OR SERVICES, INCLUDING ITS MARKETING.  
19 (9) NOTHING IN THIS SECTION PROHIBITS AN OPERATOR FROM  
20 SHARING AGGREGATED AND DEIDENTIFIED COVERED INFORMATION FOR  
21 THE DEVELOPMENT AND IMPROVEMENT OF EDUCATIONAL WEB SITES,  
22 SERVICES, OR APPLICATIONS.  
23 (10) THIS SECTION DOES NOT:  
24 (a) LIMIT THE AUTHORITY OF A LAW ENFORCEMENT AGENCY TO  
25 OBTAIN ANY CONTENT OR INFORMATION FROM AN OPERATOR AS  
26 AUTHORIZED BY LAW OR PURSUANT TO AN ORDER OF A COURT OF  
27 COMPETENT JURISDICTION;  
28 (b) LIMIT THE ABILITY OF AN OPERATOR TO USE STUDENT DATA,  
29 INCLUDING COVERED INFORMATION, FOR ADAPTIVE LEARNING OR  
30 CUSTOMIZED STUDENT LEARNING PURPOSES;  
31 (c) APPLY TO GENERAL-AUDIENCE INTERNET WEB SITES, ON-LINE  
32 SERVICES, ON-LINE APPLICATIONS, OR MOBILE APPLICATIONS, EVEN IF  
33 LOG-IN CREDENTIALS CREATED FOR AN OPERATOR'S WEB SITE, SERVICE, OR  
34 APPLICATION MAY BE USED TO ACCESS THE GENERAL-AUDIENCE WEB SITE,  
35 SERVICE, APPLICATION, OR MOBILE APPLICATION;  
36 (d) LIMIT INTERNET SERVICE PROVIDERS FROM PROVIDING  
37 INTERNET CONNECTIVITY TO SCHOOLS OR STUDENTS AND THEIR FAMILIES;  
38 (e) PROHIBIT AN OPERATOR OF AN INTERNET WEB SITE, ON-LINE  
39 SERVICE, ON-LINE APPLICATION, OR MOBILE APPLICATION FROM  
40 MARKETING EDUCATIONAL PRODUCTS DIRECTLY TO PARENTS, SO LONG AS  
41 THE MARKETING DID NOT RESULT FROM THE USE OF COVERED  
42 INFORMATION OBTAINED BY THE OPERATOR THROUGH THE PROVISION OF

1 SERVICES COVERED UNDER THIS SECTION;

2 (f) IMPOSE A DUTY UPON A PROVIDER OF AN ELECTRONIC STORE,  
3 GATEWAY, MARKETPLACE, OR OTHER MEANS OF PURCHASING OR  
4 DOWNLOADING SOFTWARE OR APPLICATIONS TO REVIEW OR ENFORCE  
5 COMPLIANCE OF THIS SECTION ON THOSE APPLICATIONS OR SOFTWARE;

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

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

13 (11) ANY INTERESTED PARTY MAY MAKE AN INITIAL REPORT OF  
14 ALLEGED VIOLATIONS OF THIS SECTION TO THE DEPARTMENT. THE  
15 DEPARTMENT SHALL CONTACT THE OPERATOR DIRECTLY AND PROVIDE  
16 THE OPERATOR WITH THE OPPORTUNITY TO EXPLAIN OR RECTIFY. IF THE  
17 DEPARTMENT CONTINUES TO RECEIVE COMPLAINTS ABOUT THE SAME  
18 OPERATOR, IT MAY BRING THE ISSUE TO THE OFFICE OF THE ATTORNEY  
19 GENERAL FOR REVIEW AND ACTION.

20 **SECTION 3.** In Colorado Revised Statutes, **add** 22-2-311 as  
21 follows:

22 **22-2-311. Data protection - disclosure and transparency -**  
23 **definition.** (1) BEGINNING WITH THE START OF THE 2015-16 ACADEMIC  
24 YEAR, AND AT THE START OF EACH ACADEMIC YEAR THEREAFTER:

25 (a) EACH SCHOOL DISTRICT, CHARTER SCHOOL, AND THE CHARTER  
26 SCHOOL INSTITUTE SHALL PROVIDE AN ANNUAL NOTICE TO PARENTS AND  
27 LEGAL GUARDIANS LISTING ALL OPERATORS WITH WHOM THE SCHOOL  
28 DISTRICT, CHARTER SCHOOL, OR CHARTER SCHOOL INSTITUTE HAS  
29 ENTERED INTO A NEGOTIATED CONTRACT, EXCLUDING END-USER  
30 AGREEMENTS, THAT PROVIDES FOR THE TRANSFER OF COVERED  
31 INFORMATION FOR THE UPCOMING ACADEMIC YEAR; AND

32 (b) EACH OPERATOR THAT HAS ENTERED INTO A NEGOTIATED  
33 CONTRACT, EXCLUDING END-USER AGREEMENTS, WITH A SCHOOL  
34 DISTRICT, CHARTER SCHOOL, OR THE CHARTER SCHOOL INSTITUTE FOR THE  
35 UPCOMING ACADEMIC YEAR SHALL POST ALL SUCH CONTRACTS ON THE  
36 OPERATOR'S WEB SITE.

37 (2) THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION DO  
38 NOT APPLY TO RURAL PUBLIC SCHOOLS, RURAL SCHOOL DISTRICTS, OR  
39 RURAL CHARTER SCHOOLS AS THOSE TERMS ARE DEFINED BY THE  
40 DEPARTMENT.

41 (3) AS USED IN THIS SECTION, "OPERATOR" MEANS ANY OPERATOR  
42 OF AN INTERNET WEB SITE; AN ON-LINE SERVICE, INCLUDING CLOUD  
43 COMPUTING SERVICES; AN ON-LINE APPLICATION; OR A MOBILE

1 APPLICATION WITH ACTUAL KNOWLEDGE THAT THE SITE, SERVICE, OR  
2 APPLICATION IS USED PRIMARILY FOR PUBLIC SCHOOL PURPOSES AND WAS  
3 DESIGNED AND MARKETED FOR PUBLIC SCHOOL PURPOSES. "OPERATOR"  
4 DOES NOT INCLUDE A SCHOOL, A SCHOOL DISTRICT, THE DEPARTMENT, OR  
5 THE STATE BOARD.

6 **SECTION 4.** In Colorado Revised Statutes, 22-1-123, **add** (14)  
7 as follows:

8 **22-1-123. Protection of student data - parental or legal**  
9 **guardian consent for surveys.** (14) (a) IF A PUBLIC SCHOOL, SCHOOL  
10 DISTRICT, CHARTER SCHOOL, OR THE CHARTER SCHOOL INSTITUTE  
11 UTILIZES CLOUD COMPUTING SERVICES, WEB SITES, ON-LINE PROGRAMS,  
12 OR APPLICATIONS THAT COLLECT OR STORE STUDENT INFORMATION,  
13 WHETHER THE INFORMATION IS PERSONALLY IDENTIFIABLE OR NOT, IT  
14 SHALL DEVELOP AN EDUCATION TECHNOLOGY PLAN THAT PROVIDES FOR  
15 THE FOLLOWING:

16 (I) ANNUAL NOTICE TO PARENTS AND LEGAL GUARDIANS  
17 CONCERNING THE TYPE OF DATA TRANSFERRED TO CLOUD COMPUTING  
18 SERVICE PROVIDERS;

19 (II) TRAINING FOR STUDENTS AND STAFF CONCERNING THE  
20 APPROPRIATE USE OF TECHNOLOGY, INCLUDING SAFETY AND PRIVACY  
21 SAFEGUARDS AND PROTOCOLS; AND

22 (III) NOTICE TO THE PARENT OR LEGAL GUARDIAN IF THERE IS A  
23 SECURITY BREACH OR OTHER UNAUTHORIZED DISCLOSURE OF HIS OR HER  
24 CHILD'S INFORMATION.

25 (b) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO RURAL  
26 PUBLIC SCHOOLS, RURAL SCHOOL DISTRICTS, OR RURAL CHARTER  
27 SCHOOLS, AS THOSE TERMS ARE DEFINED BY THE DEPARTMENT OF  
28 EDUCATION.

29 **SECTION 5.** In Colorado Revised Statutes, **amend** 22-2-106.5  
30 as follows:

31 **22-2-106.5. State board - duties with regard to student data -**  
32 **memorandum of understanding.** (1) Notwithstanding the provisions of  
33 section 22-2-111 (3) (a), the state board shall enter into a memorandum  
34 of understanding on or before September 1, 2006, with the Colorado  
35 commission on higher education to adopt a policy to share student data.  
36 At a minimum, the policy shall ensure that the exchange of information  
37 is conducted in conformance with the requirements of the federal "Family  
38 Educational Rights and Privacy Act of 1974", as amended, 20 U.S.C. sec.  
39 1232g, and all federal regulations and applicable guidelines adopted in  
40 accordance therewith. The policy shall additionally require the state  
41 board, upon request, to share student data with qualified researchers. For  
42 purposes of this section, qualified researchers ~~shall~~ include, but need not  
43 be limited to, institutions of higher education, school districts, and public



1 policy research and advocacy organizations.  
2 (2) ANY RELEASE OF DATA PURSUANT TO SUBSECTION (1) OF THIS  
3 SECTION MUST CONFORM TO THE REQUIREMENTS OF SECTION 22-2-310.

4 **SECTION 6.** In Colorado Revised Statutes, 22-2-111, **add** (4) as  
5 follows:

6 **22-2-111. Commissioner of education - office - records -**  
7 **confidential nature.** (4) ANY RELEASE OF DATA PURSUANT TO  
8 SUBSECTION (3) OF THIS SECTION MUST CONFORM TO THE REQUIREMENTS  
9 OF SECTION 22-2-310.

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

12 **25-1-1202. Index of statutory sections regarding medical**  
13 **record confidentiality and health information.** (1) Statutory provisions  
14 concerning policies, procedures, and references to the release, sharing,  
15 and use of medical records and health information include the following:

16 (II) ~~Section~~ SECTIONS 22-1-123 (5) AND 22-2-310, C.R.S.,  
17 concerning the protection of student data;

18 **SECTION 8. Act subject to petition - effective date.** This act  
19 takes effect at 12:01 a.m. on the day following the expiration of the  
20 ninety-day period after final adjournment of the general assembly  
21 (August 5, 2015, if adjournment sine die is on May 6, 2015); except that,  
22 if a referendum petition is filed pursuant to section 1 (3) of article V of  
23 the state constitution against this act or an item, section, or part of this act  
24 within such period, then the act, item, section, or part will not take effect  
25 unless approved by the people at the general election to be held in  
26 November 2016 and, in such case, will take effect on the date of the  
27 official declaration of the vote thereon by the governor.".

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