

Regular Session, 2014

SENATE BILL NO. 536

BY SENATOR LAFLEUR

SCHOOLS. Provides for K-12 student data privacy. (8/1/14)

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AN ACT

To enact Subpart A-4 of Part III of Chapter 1 of Title 17 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 17:188.1 through 188.3, relative to the transparency, accountability, and accessibility of student data; to provide for definitions; to require specific actions of the Board of Elementary and Secondary Education; to require the creation of certain data inventory; to prohibit the transfer of certain data; to provide exceptions; to require a data security plan; to require compliance with certain laws; to require that certain contracts include privacy and security provisions; to require notice in certain circumstances; to provide for annual reporting; to require the board to adopt certain rules; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Subpart A-4 of Part III of Chapter 1 of Title 17, comprised of R.S. 17:188.1 through 188.3, is hereby enacted to read as follows:

**SUBPART A-4. STUDENT DATA ACCESSIBILITY,
TRANSPARENCY, AND ACCOUNTABILITY ACT**

§188.1. Legislative findings

1 A. The legislature finds that in a time when the personal data of
2 individuals has become a valuable commodity, the information held by schools
3 and school districts gives rise to serious concerns about the security of this
4 information.

5 B. It is important that the state Board of Elementary and Secondary
6 Education, with the cooperation and assistance of local school boards, provide
7 the public with an inventory and index of all data elements with definitions of
8 individual student data fields.

9 C. While transparency and accessibility are served by a public inventory
10 of information held on students, it is key that the state Department of Education
11 ensure department-wide compliance with all privacy laws and regulations.

12 §188.2. Definitions

13 As used in this Subpart, the following terms shall have the following
14 meanings, unless the context clearly indicates otherwise:

15 (1) "Board" means the state Board of Elementary and Secondary
16 Education.

17 (2) "Department" means the state Department of Education.

18 (3) "Dataset" means a collection of data.

19 (4) "Data system" means the state Department of Education statewide
20 student data system.

21 (5) "Aggregate data" means data collected or reported at the group,
22 cohort, or institutional level.

23 (6) "Redacted data" or "de-identified data" means a student dataset in
24 which parent and student identifying information has been removed.

25 (7) "Provisional student data" means new student data proposed for
26 inclusion in the state student data system.

27 (8) "State-assigned student identifier" or "student testing number"
28 means the unique identifier assigned by the state to each student that shall not
29 be nor include the Social Security number of a student, in whole or in part.

1 **(9)(a) "Student data" means data collected or reported at the individual**
2 **student level included in a student's educational record. Student data includes**
3 **all of the following:**

4 **(i) State and national assessment results, including information on**
5 **untested public school students.**

6 **(ii) Courses taken and completed, credits earned, and other transcript**
7 **information.**

8 **(iii) Course grades and grade point average.**

9 **(iv) Date of birth, grade level and expected graduation date or**
10 **graduation cohort.**

11 **(v) Degree, diploma, credential attainment, and other school exit**
12 **information.**

13 **(vi) Attendance and mobility.**

14 **(vii) Data required to calculate the federal four-year adjusted cohort**
15 **graduation rate, including sufficient exit and drop-out information.**

16 **(viii) Discipline reports limited to objective information sufficient to**
17 **produce the federal Title IV Annual Incident Report.**

18 **(ix) Remediation.**

19 **(x) Special education data.**

20 **(xi) Demographic data and program participation information.**

21 **(b) Unless currently included a particular student's record, "student**
22 **data" shall not include the following:**

23 **(i) Juvenile court records.**

24 **(ii) Criminal records.**

25 **(iii) Medical and health records, unless student has had an IEP**
26 **evaluation.**

27 **(iv) Any student biometric information that is currently allowed to be**
28 **compiled.**

29 **§188.3. Responsibilities of the Board of Elementary and Secondary Education**

1 **The Board of Elementary and Secondary Education shall accomplish all**
2 **of the following:**

3 **A. Create, publish, and make publicly available a data inventory and**
4 **dictionary or index of student data fields currently in the student system,**
5 **including all of the following:**

6 **(1) Any individual student data required to be reported by state and**
7 **federal mandates.**

8 **(2) Any individual student data which has been proposed for inclusion**
9 **in the student data system with a statement regarding the purpose or reason for**
10 **the proposed collection.**

11 **(3) Any individual student data that the department collects or**
12 **maintains without any current purpose or reason.**

13 **B. Develop, publish, and make publicly available, policies and**
14 **procedures to comply with the Federal Family Educational Rights and Privacy**
15 **Act (FERPA) and other relevant privacy laws and policies including but not**
16 **limited to the following:**

17 **(1) Restrict access to identifiable student data in the student data system**
18 **to the following persons:**

19 **(a) The authorized staff of the department and the department's**
20 **contractors who require such access to perform their assigned duties.**

21 **(b) District administrators, teachers, and school personnel who require**
22 **such access to perform their assigned duties.**

23 **(c) Students and their parents or legal guardians.**

24 **(d) The authorized staff of other state agencies, including the**
25 **Department of Children and Family Services, required by law or interagency**
26 **data sharing agreements.**

27 **(2) The department shall not use any student identifiable data in public**
28 **reports or in response to record requests or subpoenas.**

29 **(3) The department shall develop criteria for the approval of research**

1 and data requests from state and local agencies, the state legislature,
2 researchers, and the public in accordance with the following:

3 (a) Unless otherwise approved by the board, student data maintained by
4 the department shall remain confidential.

5 (b) Unless otherwise approved by the board to release student or de-
6 identified data in specific instances, the department may only use aggregate
7 data in the release of data in response to research and data requests.

8 (4) Notification to students and parents regarding their rights under
9 federal and state law.

10 C. Unless otherwise approved by the board, the department shall not
11 transfer identifiable student data to any federal, state or local agency or other
12 organization or entity outside the state of Louisiana, with the following
13 exceptions:

14 (1) A student transfers out-of-state or a school or district seeks help with
15 locating an out-of-state transfer.

16 (2) A student leaves the state to attend an out-of-state institution of
17 higher education or training program.

18 (3) A student registers for or takes a national or multi-state assessment.

19 (4) A student voluntarily participates in a program for which such data
20 transfer is a condition or requirement of participation.

21 (5) The department enters into a contract that governs databases,
22 assessments, special education or instructional supports with an out-of-state
23 vendor.

24 (6) A student is classified as "migrant" for federal reporting purposes.

25 D. Develop a detailed data security plan that includes all of the
26 following:

27 (1) Guidelines for authorizing access to the student data system and to
28 individual student data including guidelines for authentication of authorized
29 access.

- 1 (2) Privacy compliance standards.
- 2 (3) Privacy and security audits.
- 3 (4) Planning for, notification of and procedures to be employed in the
4 case of a data breach.
- 5 (5) Data retention and disposition policies.
- 6 E. Ensure routine and ongoing compliance by the department with the
7 federal Family Educational Rights and Privacy Act (FERPA), other relevant
8 privacy laws and policies and the privacy and security policies and procedures
9 developed under the authority of this Act, including the performance of
10 compliance audits.
- 11 F. Ensure that any contracts that govern databases, assessments, or
12 instructional supports that include student or de-identified data and are
13 outsourced to private vendors include express provisions that safeguard privacy
14 and security and include penalties for noncompliance.
- 15 G. Report annually to the governor and the legislature all of the
16 following:
- 17 (1) New student data proposed for inclusion in the state student data
18 system, including the following:
- 19 (a) Any new student data collection proposed by the board becomes a
20 provisional requirement to allow districts and their local data system vendors
21 the opportunity to meet the new requirement.
- 22 (b) The board shall submit any new "provisional" student data
23 collection within one year in order to make the new student data a permanent
24 requirement. Any provisional student data collection not approved by the
25 governor and the legislature by the end of the next regular legislative session is
26 no longer to be required.
- 27 (2) Changes to existing data collections required for any reason,
28 including changes to federal reporting requirements made by the United States
29 Department of Education.

1 **E. The department shall adopt rules in accordance with the**
2 **Administrative Procedure Act to implement the provisions of this Subpart.**

3 **F. Upon the effective date of this Subpart, any existing collection of**
4 **student data by the department shall not be considered a new data collection.**

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Mary Dozier O'Brien.

DIGEST

LaFleur (SB 536)

Proposed law enacts the Student Data Accessibility, Transparency, and Accountability Act.

Proposed law provides for legislative findings relating to the availability of student data while maintaining some privacy for the individual student.

Proposed law seeks to provide transparency and accessibility while ensuring compliance with all privacy laws and regulations.

Proposed law provides definitions relative to the collecting and retention of student data. The following terms are defined:

- (1) Board (BESE).
- (2) Department.
- (3) Dataset.
- (4) Data System.
- (5) Aggregate data.
- (6) Redacted data or de-identified data.
- (7) Provisional student data.
- (8) State-assigned student identifier or student testing number.
- (9) Student data.

Proposed law provides for responsibilities of the board including the following:

- (1) Create, publish and make publicly available a data inventory and index of student data fields.
- (2) Develop and publish policies that comply with the Federal Family Educational Rights and Privacy Act (FERPA).
- (3) Allow for transfer of identifiable student data in certain situations.
- (4) Develop a detailed data security plan.
- (5) Ensure compliance by the department with FERPA.

- (6) Ensure that any and all contracts abide by the privacy concerns referenced in proposed law.
- (7) Report annually to the governor and the legislature regarding student data and its availability, while addressing privacy concerns.
- (8) Adopt rules in accordance with the APA to comply with the Act.

Effective August 1, 2014.

(Adds R.S. 17:188.1-188.3)