

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015

A Bill

HOUSE BILL 1961

4
5 By: Representative Leding

For An Act To Be Entitled

8 AND ACT TO ADOPT THE STUDENT ONLINE PERSONAL
9 INFORMATION PROTECTION ACT; AND FOR OTHER PURPOSES.

Subtitle

12 TO ADOPT THE STUDENT ONLINE PERSONAL
14 INFORMATION PROTECTION ACT.

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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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19 SECTION 1. Arkansas Code Title 6, Chapter 18, Subchapter 1, is amended
20 to add an additional section to read as follows:

21 6-18-109. Student Online Personal Information Protection Act.

22 (a) As used in this section:

23 (1) "Covered information" means personally identifiable
24 information or materials, in any media or format, when the information is:

25 (A) Created or provided by a student or the student's
26 parent or guardian, to an operator in the course of the student's, parent's,
27 or guardian's use of the operator's website, service, or application;

28 (B) Created or provided by an employee or agent of a
29 school, school district, local education agency, or Department of Education
30 to the operator; or

31 (C) Gathered by an operator through the operation of the
32 website, service, or application and is descriptive of a student or otherwise
33 identifies a student, including without limitation, a student's:

34 (i) First and last name;

35 (ii) Email address;

36 (iii) Home address;



- 1 (iv) Telephone number;
- 2 (v) Discipline records;
- 3 (vi) Test results;
- 4 (vii) Special education data;
- 5 (viii) Juvenile dependency records;
- 6 (ix) Grades;
- 7 (x) Medical or health records;
- 8 (xi) Social Security number;
- 9 (xii) Biometric information;
- 10 (xiii) Socioeconomic information;
- 11 (xiv) Political affiliations;
- 12 (xv) Religious information;
- 13 (xvi) Student identifiers;
- 14 (xvii) Search activity, photos, voice recordings; or
- 15 (xviii) Geolocation information;

16 (2) "Kindergarten through grade twelve (K-12) public school
 17 purpose" means a purpose that customarily takes place at the direction of the
 18 public school teacher, administrator, or superintendent to aid in the
 19 administration of school activities for the use and benefit of the school,
 20 including without limitation:

- 21 (A) Instruction in the classroom or at home;
- 22 (B) Administrative activities; or
- 23 (C) Collaboration between student, school personnel, or

24 parents; and

25 (3) "Operator" means the owner of an Internet website, online
 26 service, online application, or mobile application with actual knowledge that
 27 the website, service, or application is:

28 (A) Used primarily for kindergarten through grade twelve
 29 (K-12) public school purposes; and

30 (B) Designed and marketed for kindergarten through grade
 31 twelve (K-12) public school purposes.

32 (b) An operator shall not engage knowingly in the following activities
 33 with respect to the website, service, or application:

34 (1) Target advertising when the targeting of the advertising is
 35 based on any covered information that the operator has acquired because of
 36 the use of the operator's website, service or application;

1 (2) Create or gather covered information obtained by the
2 operator's website, service, or application to compile a profile about a
3 public school student except in furtherance of public school purposes;

4 (3) Sell a public school student's covered information, other
5 than with respect to the purchase, merger, or other acquisition of an
6 operator by another entity provided that the other entity is subject to the
7 provisions of this section; or

8 (4)(A) Disclose covered information of a public school student.

9 (B)(i) An operator shall not disclose covered information
10 of a public school student unless it is done to allow or improve operability
11 and functionality within the student's classroom or school; and

12 (ii) The disclosure is necessary to:

13 (a) Ensure legal and regulatory compliance;

14 (b) Respond to or participate in judicial
15 process; or

16 (c) Protect the safety of users or others or
17 the security of the website, service, or application.

18 (c) Subsection (b) does not prohibit an operator from using covered
19 information to maintain, develop, support, improve, or diagnose the
20 operator's website, service or application.

21 (d) An operator shall:

22 (1) Implement and maintain security measures that are
23 appropriate to the nature of the covered information obtained and protect the
24 covered information from unauthorized access, destruction, use, modification,
25 or disclosure; and

26 (2) Delete a public school student's covered information if the
27 school or school district requests the deletion of covered information under
28 the control of the school or school district.

29 (e) Notwithstanding subdivision (b)(4), an operator may disclose
30 covered information of a public school student under the following
31 circumstances;

32 (1) If other provisions of federal or state law require the
33 operator to disclose the covered information and the operator complies with
34 the requirements of federal and state law in protecting and disclosing the
35 covered information; or

36 (2) For legitimate research purposes:

1 (A) As required by federal or state law and subject to the
2 restrictions under the applicable federal or state law;

3 (B) As allowed by federal or state law and under the
4 direction of a school, school district, or Department of Education if no
5 covered information is used for advertising or to compile a profile of a
6 public school student; or

7 (C) As permitted by federal or state law, to a state or
8 local educational agency, including a school or school district, for
9 kindergarten through grade twelve (K-12) public school purposes.

10 (f) This section does not prohibit an operator from:

11 (1) Using deidentified covered information of a public school
12 student as follows:

13 (A) Within the operator's website, service, or application
14 or other websites, services, or applications owned by the operator to improve
15 educational products; or

16 (B) To demonstrate the effectiveness of the operator's
17 website, service, or application, including the operator's marketing of the
18 website, service, or application; or

19 (2) Sharing aggregated deidentified covered information of a
20 public school student for the development and improvement of educational
21 websites, services, or applications.

22 (g) This section does not limit:

23 (1) The authority of a law enforcement agency to obtain any
24 content or information from an operator that is authorized by law or pursuant
25 to an order of a court of competent jurisdiction;

26 (2) The ability of an operator to use student data, including
27 covered information, for adaptive learning or customized student learning
28 purposes; or

29 (3) Internet service providers from providing Internet
30 connectivity to schools, school districts, or students.

31 (h) This section does not apply to general audience websites,
32 services, or applications, even if login credentials created on the
33 operator's website, service, or application are used to access those general
34 audience websites, services, or applications.

35 (i) This section does not impose a duty on a provider of an:

36 (1) Electronic store, gateway, marketplace, or other means of

1 purchasing or downloading software or applications to review or enforce
2 compliance of this section on those software or applications; or

3 (2) Interactive computer service, as defined in 47 U.S.C § 230,
4 to review or enforce compliance with this section by a third-party content
5 provider.

6 (j) This section does not limit the ability of a student to download,
7 export, or otherwise save or maintain his or her own student-created data or
8 document.

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