FISCAL IMPACT: ☒ State ☒ Local ☐ Statutory Public Entity ☐ Conditional ☐ No Fiscal Impact

Drafting Number:	LLS 16-0458	**Date:**	August 17, 2016
Prime Sponsor(s):	Rep. Lundeen; Garnett Sen. Hill	**Bill Status:**	Signed into Law
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BILL TOPIC: STUDENT DATA COLLECTION USE SECURITY

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
State Revenue		
State Expenditures	Workload increase.	
Appropriation Required: None.		
Future Year Impacts: Ongoing workload increase		

Summary of Legislation

Overview. The bill creates the Student Data Transparency and Security Act, and requires that the State Board of Education (SBE), the Colorado Department of Education (CDE), and schools, school districts, and Boards of Cooperative Educational Services (local education providers or LEPs) take actions to increase the transparency and security of student personally identifiable information (student PII). The bill imposes requirements on both the commercial entities that provide school services by formal contract with the CDE or an LEP (contract providers), and on the commercial entities that an LEP or employees of an LEP choose to use without entering into a formal, negotiated contract (on-demand providers).

Contract providers. Each contract provider must give the CDE and LEPs clear information concerning the collection, use, and sharing of student PII. A contract provider may only collect and use student PII for specified purposes authorized by the contract, and must obtain parental consent to use a student's data in any other way. Further, contract providers are prohibited from:

- selling student PII;
- using student PII for use in targeted advertising; or
- using student PII to create a profile, except for purposes authorized by contract, or with parental consent.

Student PII may only be shared with subcontractors, who are subject to the same restrictions and requirements imposed on the contract provider. Each contract provider must maintain a comprehensive information security program, and must destroy student PII in accordance with the terms of the contract. The bill creates some exceptions to the data restrictions and contract requirements imposed on contract providers.

On-demand providers. Each LEP must post on its website a list of the on-demand providers in use by the LEP or its employees, and update the list twice each school year. If the LEP has evidence that an on-demand provider does not comply with its own privacy policy, or does not meet the restrictions and requirements imposed on contract providers, the LEP is encouraged to stop using the on-demand provider. The CDE must post on its website a list of the on-demand providers that LEPs stop using as a result of data privacy issues, and any written statements from those on-demand providers.

Colorado Department of Education. The CDE is required to ensure that contracts the department enters into that share student PII include certain restrictions and requirements. The CDE must terminate the contract if a researcher commits a material breach of the contract involving the misuse or unauthorized release of student PII. The department must also maintain on its website a detailed list of the vendors, researchers, research organizations, and government agencies with which it has data sharing agreements involving student PII.

The CDE must create a sample student information privacy and protection policy, and sample school service provider contract language that LEPs may choose to use. The department must make training materials and, upon request, training services, available to LEPs for training employees with regard to student information security and privacy.

Local education providers. No later than December 31, 2017, each LEP must adopt a student information privacy and protection policy, make copies available to parents upon request, and post the policy on its website. Small rural school districts have until July 1, 2018, to adopt a policy. Each LEP is required to ensure that data sharing agreements with contract providers include the bill's restrictions and requirements. If the contract provider misuses data, or makes an unauthorized release of student PII, the LEP must either terminate the agreement or hold a public meeting to discuss the nature of the material breach, and to decide whether to terminate the agreement. Each LEP is required to post on its website a list of the student PII collected and maintained by the LEP, in addition to the student PII that the LEP submits to the CDE.

Parents' rights. The bill recognizes a parent's right to inspect and review his or her child's student PII, request a paper or electronic copy of his or her child's student PII, and request corrections to factually inaccurate student PII that an LEP maintains. The governing board of each LEP must adopt a policy for hearing complaints from parents concerning the LEP's data policies.

State Expenditures

The bill is anticipated to increase workload for the CDE to create a sample student information privacy and protection policy for use by LEPs, and to provide training materials, technical assistance, and professional development to schools and districts. The department is currently working on model policy documents and other data privacy assistance for LEPs, and does not require additional appropriations to implement the bill.

School District Impact

Schools and districts will have increased workload to adopt a student information privacy and protection policy if the LEP has not already done so. Schools and districts will also have increased workload to ensure that all contracted service providers adhere to the limitations and requirements in the bill, and to communicate policies to vendors, staff, parents, and students.

Under current law, school districts and Boards of Cooperative Educational Services (BOCES) may submit a separate estimate of fiscal impacts within seven days of a bill's introduction. Estimates submitted by districts or BOCES for this bill can be found on the Legislative Council website at this address: http://1.usa.gov/23AxLIT

Effective Date

The bill was signed into law by the Governor on June 10, 2016, and it became effective on August 10, 2016.

State and Local Government Contacts

Education   Higher Education   Judicial Criminal   Law