



Section-by-Section: Student Privacy & Education Technology Bill, Discussion Draft

Section 1: Title

Section 2: The section prohibits the following uses of covered information:

- Prohibits targeted advertising based on covered information.
- Prohibits the use of student data to create a profile for use outside of a K-12 school purpose.
- Prohibits the sale of covered information except in the case of the purchase, merger, or any other type of acquisition of an operator by another entity or *[point of discussion]* sale of test score data for college recruitment.
- Prohibits the disclosure of covered information except for the instances outlined in Section 3.

Section 3: The section outlines allowed disclosures of covered information:

- To further a K–12 school purpose of the website, online service, online application, or mobile application and the recipient of the covered information disclosed under this subsection does not further disclose the information unless the disclosure is to allow or update the operability and functionality of the website, online service, online application, or mobile application of the operator.
- To ensure legal and regulatory compliance.
- To respond to or participate in the judicial process.
- To protect the safety or integrity of users of the website, online service, online application, or mobile application.
- To protect the security of the website, online service, online application, or mobile application.
- For research purposes required or allowed by State or Federal law under the direction of an elementary school, secondary school, local educational agency, or State educational agency, if no covered information is used for any purpose in furtherance of advertising or to amass a profile on the student for purposes other than K–12 school purposes.

Section 4: The section describes the protection of covered information:

- Establish, implement, and maintain standard security procedures (technical, administrative, and physical).

- Delete the covered information of a student (except for information that is required to be maintained by Federal or State law) within a reasonable time after receiving a request.
 - *[point of discussion: process for permanent deletion]*
- Public disclosure of covered information collected and granted to a third party.
- Facilitate access to and correction of covered information, either directly or through an educational agency or institution.
- Implement policies and procedures for responding to data breaches.
- Notify stakeholders of breaches.

Section 5: The section clarifies the applicability of the act. This Act shall not:

- Be construed to affect or otherwise alter the protections and guarantees set forth under Family Educational Rights and Privacy Act of 1974 (FERPA), the Children’s Online Privacy Protection Act of 1998 (COPPA) or any other Federal statute relating to privacy protection.
- Be construed to limit the authority of a law enforcement agency to obtain content or information from an operator as authorized by law or pursuant to an order of a court of competent jurisdiction.
- Limit an educational agency or institution from providing Internet access service
- Impede the ability of a student or a parent of a student to download, export, create, or otherwise save or maintain certain data.

Section 6 (a): Technology Impact Assessments

The Commission shall publish a standard technology impact assessment that addresses the specific considerations that an operator is required to make, including the following:

- A description of the website, online service, online application, or mobile application of the operator.
- A description of the data collected.
- An academic research justification for the use of research conducted with student data.
- A risk analysis that considers harms to students, discrimination, and accessibility.
- A description of the risk mitigation processes and procedures used to address the risks described above.

The FTC is to issue guidance for public and nonpublic versions of the technology impact assessment.

Section 6 (b & c): Completion of the Technology Impact Assessment

- *[Point of discussion: The technology impact assessment should be completed by an independent auditor]*
- The nonpublic version shall be submitted annually to the Commission and the relevant State Attorney General, District Attorney, and school district administrator.

- The most recent version of the public facing technology impact assessment should be made available on the operator's website.

Section 6 (d): The Federal Trade Commission shall issue a report examining the use of technology in education and benefits, costs, and impacts described in this section.

Section 7: The Secretary of Education shall provide educational agencies or institutions with reasonable guidance and technical assistance.

Section 8: The section describes how the act is enforced.

- Provides the Federal Trade Commission (FTC) with enforcement authority under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)) regarding unfair or deceptive acts or practices.
- Enforcement includes nonprofit organizations.
- Private right of action.
- *[point of discussion: Interaction with state laws]*

Section 9: Definitions

[See Bill]