

Section 1 Header

2014 SESSION

14-2467.5
04/05

HOUSE BILL *[bill number]*

AN ACT relative to the collection and disclosure of student data.

SPONSORS: [sponsors]

COMMITTEE: [committee]

ANALYSIS

This bill regulates the collection and distribution of student data.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears [~~in brackets and struck through.~~]
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

Additions done 12/11/13 by NMK

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14-2467.3
04/05

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fourteen

AN ACT relative to the collection and disclosure of student data.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Subdivision; School Boards; Student and Teacher Information Protection and Privacy.
2 Amend RSA 189 by inserting after section 64 the following new subdivision:

3 Student and Teacher Information Protection and Privacy

4 189:65 Definitions. In this subdivision:

5 I. "Biometric" means a record of one or more measurable biological or behavioral
6 characteristics that can be used for automated recognition of an individual. Examples include
7 fingerprints, retina and iris patterns, voiceprints, DNA sequence, facial characteristics, and
8 handwriting.

9 II. "Board" means the state board of education.

10 III. "Department" means the department of education.

11 IV. "District", "school" , or "school district" means a school district and includes the school
12 administrative unit to which it may belong.

13 V. "Disclosure" means permitting access to, revealing, releasing, transferring, or otherwise
14 communicating, personally identifiable information contained in education records to any party, by
15 any means, including oral, written, or electronic.

16 VI. "Statewide longitudinal data system" (SLDS) means the department's statewide
17 longitudinal data system containing student information and any other state or federal database
18 containing student information, whether under contract to, or ~~with~~ **pursuant to** a memorandum of
19 understanding with, the department, excluding special education and adult education databases.

20 VII. "Student personally-identifiable data" means:

21 (a) The student's name.

22 (b) The name of the student's parents or other family members.

23 (c) The address of the student or student's family.

24 (d) Indirect identifiers, including the student's date of birth, place of birth, social security
25 number, email, social media address, or other electronic address, telephone number, credit card
26 account number, insurance account number, and financial services account number.

27 (e) Other information that, alone or in combination, is linked or linkable to a specific
28 student that would allow a reasonable person in the school community, who does not have personal
29 knowledge of the relevant circumstances, to identify the student with reasonable certainty.

30 **VIII. "Testing entity" means a third party, inside or outside of New Hampshire,**
31 **contracted to administer the state assessment as defined in RSA 193-C:6 Assessment**

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1 ***Required.***

2

3 189:66 Data Inventory and Policies Publication. The department shall create, maintain, and
4 make publicly available an index of data elements containing definitions of individual student
5 personally-identifiable data fields currently in the SLDS or any other database maintained by the
6 department including:

7 I. Any individual student personally-identifiable data required to be reported by state or
8 federal law.

9 II. Any individual student personally-identifiable data which has been proposed for inclusion
10 in the SLDS with a statement explaining the purpose or reason for the proposed collection.

11 III. Any individual student personally-identifiable data that the department collects or
12 maintains.

13 189:67 Limits on Disclosure of Information,

14 I A local school shall disclose student personally-identifiable data about a student to the
15 parent of the student or to the eligible student.

16 II. A school ***or the department*** may disclose to the district in which the student resides ~~and~~
17 ~~to a testing entity~~ the student's name, unique pupil identifier, birth date, and grade level, for the sole
18 purpose of identifying the test taker .

19 III. ***A school or the department may disclose to a testing entity the student's name or***
20 ***unique pupil identifier but not both, birth date, and grade level, for the sole purpose of***
21 ***identifying the test taker .***

22 III. Neither a school nor the department shall disclose ***or permit the disclosure of*** student
23 personally-identifiable data, ***the unique pupil identifier or any data listed in RSA 189:68, I.*** to
24 any entity performing test-data analysis.

25 IV. Except as provided in state statute, or pursuant to a subpoena or court orders, the
26 department shall not disclose student personally-identifiable data to any individual, organization,
27 government, or government entity other than the student's district of residence but may disclose
28 such data to the student's district of residence.

29 V. Student personally-identifiable data shall be considered confidential and privileged and
30 shall not be disclosed, directly or indirectly, as a result of administrative or judicial proceedings.

31 189:68 Student Privacy.

32 I. The department shall not collect or maintain the following data in any database, including
33 the SLDS:

34 (a) Name of the student's parents or other family members.

35 (b) Address of the student or student's family.

36 (c) Student email or other electronic address.

37 (d) Student or family telephone number.

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1 (e) Student or parent credit card account number, insurance account number or
2 financial services account number

3 (f) Juvenile delinquency records.

4 (g) Criminal records.

5 (h) Medical and dental insurance information.

6 (i) Student birth information, other than birth date and **country of birth place**.

7 (j) Student social security number.

8 (k) Student biometric information.

9 (l) Student postsecondary workforce ~~employer~~ **information, excluding postsecondary**
10 **workforce and college plans.**

11 (m) Height and weight.

12 (n) Body mass index (BMI).

13 (o) Political affiliations or beliefs of student or parents.

14 (p) Family income, **excluding free and reduced lunch program eligibility as**
15 **determined by the Department of Health and Human Services.**

16 (q) Mother's maiden name.

17 (r) Parent's social security numbers.

18 (s) Mental and psychological problems of the student or the student's family.

19 (t) Sex behavior or attitudes.

20 (u) Indication of a student pregnancy.

21 (v) Religious practices, affiliations, or beliefs of the student or the student's parents.

22 II. No school shall require a student to use an identification device that uses radio frequency
23 identification, or similar technology, to identify the student, transmit information regarding the
24 student, or monitor or track the student without approval of the school board, after a public hearing,
25 and without the written consent of a parent or legal guardian of an affected student which may be
26 withheld without consequence.

27 III. No school shall install remote surveillance software on a school supplied computing
28 device provided to a student or a teacher without the approval of the school board, after a public
29 hearing and without the written consent of the teacher or a parent or legal guardian of the affected
30 student which may be withheld without consequence. In this paragraph, "surveillance" means
31 observing, capturing images, listening, or recording and shall not include locating equipment when
32 there is reason to believe the equipment is about to be or has been stolen or damaged.

33 2 Information Technology Council; Members; Commissioner of Education. RSA 21-R:6, II(g) is
34 repealed and reenacted to read as follows:

35 (g) The commissioner of the department of education, or designee.

36 3 Unique Pupil Identification. Amend RSA 193-E:5, I(o) to read as follows:

37 (o) At the request of an early childhood program, **school** district, or postsecondary

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1 institution, the department of education shall provide pupil-level data from the unique pupil
2 identification system to an early childhood program, **school** district, or postsecondary institution for
3 pupils ~~pursing~~ **pursuing** an education in that entity. **Except as otherwise specifically provided**
4 **in statute, The the** department shall not provide **for any purpose** any personally-identifiable
5 ~~[pupil-level] data to [an entity not directly involved with the pupil's education]~~ **any public or**
6 **private individual or entity, including the local, state, or federal government, or**
7 **department or agency thereof, regardless of whether such individual or entity is for profit**
8 **or not-for-profit, and regardless of whether the public or private individual or entity is**
9 **involved in any way with the pupil's education.**

10 4 Effective Date. This act shall take effect July 1, 2014.