State Boards of Education Have At Least Some Authority Over Education Data Privacy

37
Landscape of Privacy Concerns

» The scope and type of student data schools collect
» Who is collecting and accessing student data/education records
» 3rd party service providers
» Common Core and Assessment Consortia
» Use of data collected by ed technology vendors
» The cloud

Credit: The Data Quality Campaign
States Have Passed Student Data Privacy Laws Since 2013

35
Legislating Student Data

Student data privacy bills often address one or more of three types of activities:

**Collection**
- How are data gathered?
- What types of data are gathered?
- Is parental consent needed?

**Access**
- Who can see these data?
- Who can use these data?
- Role-based access: Federal, State, District, Research.

**Sharing**
- Who can a school district export these data to?
- Implications for afterschool networks, non-profits, researchers.

Credit: The Data Quality Campaign
State Privacy Laws Give SEAs and SBEs Authority To...

- Rule-making
- Override authority
- Adopt & implement privacy policies
- Provide a public data inventory
- Appoint Chief Privacy Officer
- Review potential new data elements to be collected/linked/shared
- Ensure role based access to data
- Notify parents of rights
- Create a Data Security Review Team
- Provide oversight of vendor contracts
Problematic Trends

- Accidental Consequences
  - Unworkable requirements
  - Defunding SLDS
  - Opt-Outs or Opt-Ins
  - Researcher restrictions
  - Conflation with Anti-Assessment or Anti-CCSS Legislation

- Interpreting Legislation: Words Matter
  - Ambiguous Terms
  - Interpretation Changes

- Implementation Difficulties
Interesting Trends

- Governance
  - Longitudinal Data Boards
  - Training
- Disciplinary Record or Medical Record Provisions
- Penalties (financial and criminal)
- Laws Aimed At Vendors
The 2014 California laws restrict what companies can do with the information they obtain through vendor contracts with the school.
Other State Activity

» Regulations
» Guidance
» Executive Orders
» Resolutions
Foundational Elements of a State Data Privacy and Security Policy

1. Statement of the policy/law's purposes
2. Select the person(s) in charge
3. Transparency plan
4. Limiting Vendor Use of Data
5. Statewide data security plan
6. Ongoing Staff Training

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What’s Next?

40
bills related to student data privacy in

18
states

2016 Student Data Privacy Legislation
40 bills in 18 states

Credit: The Data Quality Campaign
NASB Data Privacy Resources

Policy Update
National Association of State Boards of Education

A Tale of Two Federal Student Privacy Bills
By Amelia Vance

Two ambitious proposals on student data privacy were advancing in the US House of Representatives. On April 20, Congressmen Polis (D-CO) and Mesmer (R-CT) introduced the Student Digital Privacy and Educational Rights Act, which regulates online service providers in a way designed to balance the need for data security with the need to use data to improve instruction.

On April 22, Congressman Ryan (R-IA) and Cornyn (R-TX) introduced a bill that seeks to regulate the use of data by credit score providers and student education data analytics companies. The bills are part of a larger effort to protect student privacy in the digital age.

Trends in State Legislation on Student Data Privacy
By Amelia Vance

In a surge of legislative action on student data privacy this year, 47 state legislatures introduced more than 100 bills on topics 16 of which became law by June 1 (see map). In a third of those states, legislatures considered and sometimes succeeded in expanding the already-subsidized authority of state boards of education in this arena.

USE OF DATA
The 102 bills introduced this session 171 were aimed at establishing better safeguards for the collection, use, and disclosure of student data. Easing of these bills— including the parent bill in Arizona, Georgia, Maryland, and Washington—provided districts or service providers with important protections for student data and expanded the role of state boards in protecting that data. State board members who debate the 102 bills in their state have a clear voice in the debate and will determine the best practices to implement in their states.

2015 State Legislative Session: Education Privacy Laws and Bills

Policy Protection Act
(Senators Warner & Hatch)
S.1322

Protecting Student Privacy Act
(Representatives Polis & Mesmer)
H.R. 2092

Comparing 2015 Federal Education Data Privacy Bills

Table:

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<thead>
<tr>
<th>Bill</th>
<th>Protecting Student Privacy Act</th>
<th>Policy Protection Act</th>
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<tr>
<td>Introduced</td>
<td>May 13, 2015</td>
<td>May 14, 2015</td>
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<tr>
<td>STATUS</td>
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Policy Protection Act seeks to update FERPA by establishing new restrictions on the collection, use, and sharing of student records, focusing on parental notice and consent.

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Questions or Want More Info?

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