
A BILL FOR AN ACT

RELATING TO STUDENT DATA MANAGEMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 302A, Hawaii Revised Statutes, is
2 amended by adding a new subpart to part II to be appropriately
3 designated and to read as follows:

4 " Student Online Personal Information Protection

5 §302A- Definitions. As used in this subpart, unless the
6 context otherwise requires:

7 "Covered information" means personally identifiable
8 information or material, or information that is linked to
9 personally identifiable information or material, in any media or
10 format that is not publically available and is:

11 (1) Created by or provided to an operator by a student, or
12 the student's parent or legal guardian, in the course
13 of the student's, parent's, or legal guardian's use of
14 the operator's site, service, or application for K-12
15 school purposes;

16 (2) Created by or provided to an operator by an employee
17 or agent of a K-12 school or complex for K-12 school
18 purposes; or



(3) Gathered by an operator through the operation of its site, service, or application for K-12 school purposes and personally identifies a student, including but not limited to information in the student's educational record or electronic mail, first and last name, home address, telephone number, electronic mail address, or other information that allows physical or online contact, discipline records, test results, special education data, juvenile dependency records, grades, evaluations, criminal records, medical records, health records, social security number, biometric information, disabilities, socioeconomic information, food purchases, political affiliations, religious information, text messages, documents, student identifiers, search activity, photos, voice recordings, or geolocation information.

"Interactive computer service" means that term as defined in title 47 United States Code section 230.

"K-12 school" means a school that offers any of grades kindergarten to twelve and that is a public school, as defined in section 302A-101.



1 "K-12 school purposes" means purposes that are directed by
2 or that customarily take place at the direction of a K-12
3 school, teacher, or complex area superintendent or that aid in
4 the administration of school activities, including but not
5 limited to instruction in the classroom or at home,
6 administrative activities, and collaboration between students,
7 school personnel, or parents, or are otherwise for the use and
8 benefit of the school.

9 "Operator" means, to the extent that it is operating in
10 this capacity, the operator of a website, online service, online
11 application, or mobile application with actual knowledge that
12 the site, service, or application is used primarily for K-12
13 school purposes and was designed and marketed for K-12 school
14 purposes.

15 "Targeted advertising" means presenting advertisements to a
16 student where the advertisement is selected based on information
17 obtained or inferred over time from that student's online
18 behavior, usage of applications, or covered information.

19 "Targeted advertising" does not include advertising to a student
20 at an online location based upon that student's current visit to
21 that location, or in response to that student's request for



1 information or feedback, without the retention of that student's
2 online activities or requests over time for the purpose of
3 targeting subsequent advertisements.

4 §302A- Prohibited activity; permitted disclosures and
5 uses; limitations. (a) An operator shall not knowingly do any
6 of the following:

- 7 (1) Engage in targeted advertising on the operator's site,
8 service, or application; or target advertising on any
9 other site, service, or application, if the targeting
10 of the advertising is based on any information,
11 including covered information and persistent unique
12 identifiers that the operator has acquired because of
13 the use of that operator's site, service, or
14 application for K-12 school purposes;
- 15 (2) Use information, including persistent unique
16 identifiers, created or gathered by the operator's
17 site, service, or application, to amass a profile
18 about a student except in furtherance of K-12 school
19 purposes. As used in this section, "amass a profile"
20 does not include the collection and retention of
21 account information that remains under the control of



1 the student, the student's parent or guardian, or a
2 K-12 school;

3 (3) Sell or rent a student's information, including
4 covered information. This section does not apply to
5 the purchase, merger, or other type of acquisition of
6 an operator by another entity if the operator or
7 successor entity complies with this section regarding
8 previously acquired student information; or

9 (4) Except as otherwise provided in subsection (c),
10 disclose covered information unless the disclosure is
11 made for the following purposes:

12 (A) In furtherance of the K-12 school purpose of the
13 site, service, or application, if the recipient
14 of the covered information disclosed under this
15 subsection does not further disclose the
16 information unless done to allow or improve
17 operability and functionality of the operator's
18 site, service, or application;

19 (B) To ensure legal and regulatory compliance or
20 protect against liability;



- 1 (C) To respond to or participate in the judicial
2 process;
- 3 (D) To protect the safety or integrity of users of
4 the site or others or the security of the site,
5 service, or application;
- 6 (E) For a school, educational, or employment purpose
7 requested by the student or the student's parent
8 or guardian; provided that the information is not
9 used or further disclosed for any other purpose;
10 or
- 11 (F) To provide to a third party, if the operator
12 contractually prohibits the third party from
13 using any covered information for any purpose
14 other than providing the contracted service to or
15 on behalf of the operator, prohibits the third
16 party from disclosing any covered information
17 provided by the operator with subsequent third
18 parties, and requires the third party to
19 implement and maintain reasonable security
20 procedures and practices.



1 Nothing in this section shall prohibit the operator's use
2 of information for the purposes of maintaining, developing,
3 supporting, improving, or diagnosing the operator's site,
4 service, or application.

5 (b) An operator shall:

6 (1) Implement and maintain reasonable security procedures
7 and practices appropriate to the nature of the covered
8 information designed to protect that covered
9 information from unauthorized access, destruction,
10 use, modification, or disclosure; and

11 (2) Delete within a reasonable time period a student's
12 covered information if the K-12 school or complex
13 requests deletion of covered information under the
14 control of the K-12 school or complex, unless a
15 student or a student's parent or guardian consents to
16 the maintenance of the covered information.

17 (c) An operator may use or disclose covered information of
18 a student under the following circumstances:

19 (1) If other provisions of federal or state law require
20 the operator to disclose the information and the
21 operator complies with the requirements of federal and



1 state law in protecting and disclosing that
2 information;

3 (2) For legitimate research purposes as required by state
4 or federal law and subject to the restrictions under
5 applicable state and federal law or as allowed by
6 state or federal law and under the direction of a K-12
7 school, complex, or the department, if covered
8 information is not used for advertising or to amass a
9 profile on the student for purposes other than K-12
10 school purposes; or

11 (3) To a state or local educational agency, including K-12
12 schools and complexes, for K-12 school purposes, as
13 permitted by state or federal law.

14 (d) This section shall not prohibit an operator from doing
15 any of the following:

16 (1) Using covered information to improve educational
17 products if that information is not associated with an
18 identified student within the operator's site,
19 service, or application or other sites, services, or
20 applications owned by the operator;



1 (2) Using information that is not associated with an
2 identified student to demonstrate the effectiveness of
3 the operator's products or services, including the
4 marketing of the products or services;

5 (3) Sharing information that is not associated with an
6 identified student for the development and improvement
7 of educational sites, services, or applications; or

8 (4) Using recommendation engines to recommend to a student
9 either of the following:

10 (A) Additional content relating to an educational,
11 other learning, or employment opportunity purpose
12 within an online site, service, or application if
13 the recommendation is not determined in whole or
14 in part by payment or other consideration from a
15 third party;

16 (B) Additional services relating to an educational,
17 other learning, or employment opportunity purpose
18 within an online site, service, or application if
19 the recommendation is not determined in whole or
20 in part by payment or other consideration from a
21 third party; or



(C) Responding to a student's request for information or for feedback without the information or response being determined in whole or in part by payment or other consideration from a third party.

(e) This section shall not:

(1) Limit the authority of a law enforcement agency to obtain any content or information from an operator as authorized by law or under a court order;

(2) Limit the ability of an operator to use student data, including covered information, for adaptive learning or customized student learning purposes;

(3) Apply to general audience websites, general audience online services, general audience online applications, or general audience mobile applications, even if login credentials created for an operator's site, service, or application may be used to access those general audience sites, services, or applications;

(4) Limit service providers from providing internet connectivity to schools or students and their families;



- 1 (5) Prohibit an operator of a website, online service,
2 online application, or mobile application from
3 marketing educational products directly to parents if
4 the marketing did not result from the use of covered
5 information obtained by the operator by providing
6 services covered under this section;
- 7 (6) Impose a duty upon a provider of an electronic store,
8 gateway, marketplace, or other means of purchasing or
9 downloading software or applications to review or
10 enforce compliance with this section on those
11 applications or software; provided that the
12 applications and software companies shall make a good
13 faith effort to protect covered information;
- 14 (7) Impose a duty upon a provider of an interactive
15 computer service to review or enforce compliance with
16 this section by third-party content providers;
17 provided that the third party content provider shall
18 make a good faith effort to protect covered
19 information; or



1 (8) Prohibit students from downloading, exporting,
2 transferring, saving, or maintaining their own student
3 data or documents."

4 SECTION 2. This Act does not affect rights and duties that
5 matured, penalties that were incurred, and proceedings that were
6 begun before its effective date.

7 SECTION 3. This Act shall take effect upon its approval.
8



Report Title:

Student Data; Computer Services; Information Protection

Description:

Limits the ways in which the operator of a website, online service, online application, or mobile application working with the DOE can use student data. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

