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SENATE BILL 5419

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State of Washington

64th Legislature

2015 Regular Session

By Senators Litzow, McAuliffe, Rivers, Fain, Mullet, Frockt, Hill, Dammeier, Rolfes, Kohl-Welles, and Chase

Read first time 01/21/15. Referred to Committee on Early Learning & K-12 Education.

1 AN ACT Relating to the student user privacy in education rights  
2 act; adding new sections to chapter 28A.600 RCW; and creating a new  
3 section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** This act may be known and cited as the  
6 student user privacy in education rights act or SUPER act.

7 NEW SECTION. **Sec. 2.** The definitions in this section apply  
8 throughout sections 2 through 8 of this act unless the context  
9 clearly requires otherwise.

10 (1) "School service" means a web site, mobile application, or  
11 online service that: (a) Is designed and marketed for use in United  
12 States elementary or secondary educational institutions; (b) is used  
13 at the direction of teachers or other employees of an elementary or  
14 secondary educational institution; and (c) collects, maintains, or  
15 uses student personal information. A "school service" does not  
16 include a web site, mobile application, or online service that is  
17 designed and marketed for use by individuals or entities generally,  
18 even if also marketed to United States elementary or secondary  
19 educational institutions.

1 (2) "School service provider" means an entity that operates a  
2 school service.

3 (3) "Students" refer to students of United States elementary and  
4 secondary schools.

5 (4) "Student personal information" means information collected  
6 through a school service that identifies an individual student or  
7 that is linked to information that identifies an individual student.

8 NEW SECTION. **Sec. 3.** (1) School service providers must provide  
9 clear and easy to understand information about the types of student  
10 personal information they collect and about how they use and share  
11 the student personal information.

12 (2) School service providers must provide prominent notice before  
13 making material changes to their privacy policies for school  
14 services.

15 (3) School service providers must facilitate access to and  
16 correction of student personal information by students or their  
17 parent or guardian either directly or through the relevant  
18 educational institution or teacher.

19 (4) Where the school service is offered to an educational  
20 institution or teacher, information required by subsections (1) and  
21 (2) of this section may be provided to the educational institution or  
22 teacher.

23 NEW SECTION. **Sec. 4.** (1) School service providers may collect,  
24 use, and share student personal information only for purposes  
25 authorized by the relevant educational institution or teacher, or  
26 with the consent of the student or the student's parent or guardian.

27 (2) School service providers may not sell student personal  
28 information.

29 (3) School service providers may not use or share any student  
30 personal information for purposes of behaviorally targeting  
31 advertisements to students.

32 (4) School service providers may not use student personal  
33 information to create a personal profile of a student other than for  
34 supporting purposes authorized by the relevant educational  
35 institution or teacher, or with the consent of the student or the  
36 student's parent or guardian.

37 (5) School service providers must obtain consent before using  
38 student personal information in a manner that is inconsistent with

1 the provider's privacy policy for the applicable school service in  
2 effect at the time of collection. Where the student personal  
3 information was collected directly from students, the school service  
4 provider must obtain consent from the student or the student's parent  
5 or guardian. In all other cases, consent may be obtained from the  
6 educational institution or teacher.

7 NEW SECTION. **Sec. 5.** (1) School service providers must maintain  
8 a comprehensive information security program that is reasonably  
9 designed to protect the security, privacy, confidentiality, and  
10 integrity of student personal information. The information security  
11 program should make use of appropriate administrative, technological,  
12 and physical safeguards.

13 (2) School service providers may not knowingly retain student  
14 personal information beyond the time period authorized by the  
15 relevant educational institution or teacher unless the school service  
16 provider has obtained student consent or the consent of the student's  
17 parent or guardian.

18 (3) School service providers must obligate any third parties  
19 involved on the providers' behalf in the supply of school services to  
20 adhere to and implement the obligations imposed under this section  
21 and sections 3 and 4 of this act.

22 (4) Before permitting a successor entity to access student  
23 personal information, a school service provider must ensure that the  
24 successor entity will abide by all privacy and security commitments  
25 related to previously collected student personal information.

26 NEW SECTION. **Sec. 6.** Nothing in sections 2 through 6 of this  
27 act is intended to prohibit the use of student personal information  
28 for purposes of adaptive learning or customized education.

29 NEW SECTION. **Sec. 7.** Sections 2 through 6 of this act adopt and  
30 do not modify existing law regarding consent, including consent from  
31 minors and employees on behalf of educational institutions.

32 NEW SECTION. **Sec. 8.** If a school service provider entered into  
33 a signed, written contract with an educational institution or teacher  
34 before the effective date of this section, the school service  
35 provider is not liable for the requirements of sections 2 through 6

1 of this act with respect to that contract until the next renewal date  
2 of the contract.

3 NEW SECTION. **Sec. 9.** Sections 2 through 8 of this act are each  
4 added to chapter 28A.600 RCW.

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