

School Service Provider Concerns with S. 7626
An Act to Amend the Education Law Relating to Student Privacy
June 13, 2016

On behalf of the Software & Information Industry Association and the undersigned organizations, we write to express our concerns regarding S. 7626, an act to amend the education law relating to the release of student information. Our organizations represent the software and digital content industry. Our members provide digital products and services for K-20 education, including instructional materials, education software and apps, and related technologies and services. As an industry dedicated to serving schools, our foremost goal is to help every student succeed. We have worked with legislatures across the country to enact laws that protect student privacy while protecting innovation and the benefits of technology in the classroom.

As you know, in 2014 New York State passed one of the most restrictive and prescriptive student data privacy laws in the nation – significantly increasing burden on schools and limiting their ability to work with school service providers. We worry that S. 7626 would impose further unintended consequences which would significantly impede the remaining ability of schools to use technology to improve student outcomes.

S. 7626 Unintended Consequences

Under S. 7626, we are concerned the law would eliminate the remaining opportunities schools have to work with their technology service providers and further increase the burden on schools to keep up with increasing demands for accountability and progress by state and federal policymakers. For example, S. 7626 creates:

- Blanket opt-out provisions for a school's use of student data. This will increase burden on schools and force the establishment of dual educational systems – technology-enabled and non-technology enabled – creating inequity in educational opportunities for students. In essence, one parent's opt-out of a school approved educational program would require the development of an entire secondary instructional system.
- Limitations on the disclosure of personally identifiable information to only parents or non-profit organizations arbitrarily eliminates the ability of schools to work with the majority of their current providers – forcing schools to end partnerships that work, enable better learning in the classroom, and respect privacy of student information.
- Overly broad restrictions, including on advertising and marketing, raise serious concerns that personalized learning tools and educational recommendation engines will be prohibited.

Recommendation

Since New York passed its law in 2014, more than 35 other states have reviewed and passed student privacy legislation which protect student privacy while promoting educational innovation. These bills laws achieved such balance through collaboration among policymakers, education stakeholders, privacy advocates, and industry. The result is a strong legislative framework that protects student privacy while mitigating unintended consequences and limitations on the use of appropriate, innovative technologies in the classroom.

We recommend that any new student privacy legislation work to align New York State law with the similar privacy requirements passed in other states around the nation. Our organizations have submitted recommended language that will strengthen the law while ensuring schools will not unintentionally lose access to innovative educational tools and service providers can understand how to comply in New York as well as other states. We look forward to working with you moving forward to implement a privacy law that works for New York schools, students, parents, and service providers.

Sincerely,

Software & Information Industry Association

NetChoice

TechNet

State Privacy and Security Coalition, Inc.