

D R A F T

SUMMARY

Directs State Board of Education to appoint Chief Privacy Officer to be responsible for ensuring that student information contained in student education records is adequately protected.

Directs education entity to provide certain information to students, parents, legal guardians and teachers related to personal data collected by education entity.

Allows student, parent or legal guardian to refuse to provide personal data or to agree to provide personal data but request that data not be shared.

Declares emergency, effective July 1, 2013.

A BILL FOR AN ACT

1
2 Relating to student education records; creating new provisions; amending
3 ORS 326.565, 326.580 and 338.115; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. (1) The State Board of Education shall appoint a Chief**
6 **Privacy Officer who shall serve at the pleasure of the board.**

7 **(2) The Chief Privacy Officer is responsible for ensuring that infor-**
8 **mation contained in student education records is adequately protected**
9 **by:**

10 **(a) Recommending to the board standards for:**

11 **(A) The creation, use, custody and disclosure of student education**
12 **records that are consistent with the requirements of state and federal**
13 **law; and**

14 **(B) The content and format of electronic student records that are**
15 **consistent with the requirements of state and federal law.**

16 **(b) Issuing an assessment of any data system, program or contract**

1 involving personally identifiable information from student education
2 records that:

3 (A) Is about a student or a parent or guardian of a student; and

4 (B) Is not required to be collected under federal law, not required
5 for recordkeeping purposes or not required for the administration of
6 a school, a school district or an education service district, as deter-
7 mined under rules adopted by the board.

8 (c) Making assessments issued under paragraph (b) of this sub-
9 section available on the website of the Department of Education.

10 (d) Imposing sanctions against any school, school district or edu-
11 cation service district for any disclosure of personally identifiable in-
12 formation from a student's records that is prohibited by the rules of
13 the board.

14 (e) Administering the Oregon electronic student record program
15 described in ORS 326.580.

16 (f) Any other duties related to student education records assigned
17 by the board.

18 (3) When developing standards as provided by subsection (2)(a) of
19 this section, the Chief Privacy Officer shall ensure that the disclosure
20 of personally identifiable information is minimized to the greatest ex-
21 tent practicable as allowed under state and federal law.

22 SECTION 2. ORS 326.565 is amended to read:

23 326.565. (1) The State Board of Education, **in consultation with the**
24 **Chief Privacy Officer**, shall adopt by rule standards for the creation, use,
25 custody and disclosure, including access, of student education records that
26 are consistent with the requirements of applicable state and federal law.

27 (2) The [state] board shall distribute the rules that are adopted to all
28 school districts. The school districts shall make those rules available to the
29 public schools in the district and to the public.

30 (3) The [state] board may differentiate the standards applicable to persons
31 18 years of age or older or enrolled in post-secondary institutions.

1 (4) The standards shall include requirements under which public and
2 private schools and education service districts transfer student education
3 records pursuant to ORS 326.575.

4 **SECTION 3.** ORS 326.580 is amended to read:

5 326.580. (1) As used in this section, “educational institution” means:

6 (a) An “educational institution” as defined in ORS 326.575.

7 (b) A state agency.

8 (c) A local correctional facility.

9 (2) The State Board of Education [*may*], **in consultation with the Chief**
10 **Privacy Officer, shall** adopt by rule standards for the content and format
11 of an Oregon electronic student record. An Oregon electronic student record
12 may be used to transfer student record information from one educational
13 institution to another.

14 (3) The board may define the Oregon electronic student record to consti-
15 tute a full and complete copy of the official student permanent record, stu-
16 dent education record and certificate of immunization status that are
17 required by state and federal law.

18 (4) The standards established by the board shall include procedures and
19 criteria for participation in the Oregon electronic student record program
20 by educational institutions. An educational institution may apply to the
21 Department of Education for a certificate of participation in the Oregon
22 electronic student record program.

23 (5) An educational institution that is approved for participation in the
24 Oregon electronic student record program by the Department of Education:

25 (a) Shall not be required to forward by mail or other means physical items
26 such as original documents or photocopies to a receiving educational insti-
27 tution that also is approved for participation in the program. This paragraph
28 does not apply to special education records that are specifically required by
29 federal law to be physically transferred.

30 (b) May elect to designate the Oregon electronic student record as the
31 official student record.

1 (c) Shall retain the official student record in compliance with state and
2 federal law.

3 **SECTION 4. (1) As used in this section:**

4 (a) "Education entity" means a school district, the schools of a
5 school district or an education service district.

6 (b) "Personal data" means:

7 (A) Personally identifiable information about a student or a parent
8 or guardian of a student; and

9 (B) Any other information not required to be collected under state
10 or federal law, not required for recordkeeping purposes or not required
11 for the administration of the education entity, as determined under
12 rules adopted by the State Board of Education.

13 (2)(a) An education entity shall provide information to students and
14 the parents or legal guardians of students about the purposes for
15 which personal data collected by the education entity will be used. The
16 information must be provided:

17 (A) Within one week of the beginning of the school year or one
18 week of the student enrolling in a school served by the education en-
19 tity; and

20 (B) At any other time when the education entity collects personal
21 data.

22 (b) An education entity shall provide information to the teachers
23 employed by the education entity about the purposes for which per-
24 sonal data collected by the education entity will be used. The infor-
25 mation must be provided:

26 (A) Within one week of the beginning of the school year; and

27 (B) At any other time when the education entity collects personal
28 data and the education entity determines that teachers should receive
29 information about the personal data collected.

30 (3) Information provided by the education entity under subsection
31 (2) of this section must include a description of the personal data col-

1 lected, an identification of who will use the personal data and an ex-
2 planation of why the personal data will be used.

3 (4) A student, parent or legal guardian may:

4 (a) Refuse to provide personal data only if the personal data meets
5 the requirements described in subsection (1)(b)(B) of this section; or

6 (b) Agree to provide personal data but request in writing that the
7 personal data not be shared with any other public or private entity.

8 **SECTION 5.** Section 4 of this 2013 Act first applies to the 2013-2014
9 school year.

10 **SECTION 6.** ORS 338.115, as amended by section 9, chapter 92, Oregon
11 Laws 2012, is amended to read:

12 338.115. (1) Statutes and rules that apply to school district boards, school
13 districts or other public schools do not apply to public charter schools.
14 However, the following laws do apply to public charter schools:

15 (a) Federal law;

16 (b) ORS 30.260 to 30.300 (tort claims);

17 (c) ORS 192.410 to 192.505 (public records law);

18 (d) ORS 192.610 to 192.690 (public meetings law);

19 (e) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);

20 (f) ORS 326.565, 326.575 and 326.580 **and section 4 of this 2013 Act** (stu-
21 dent records);

22 (g) ORS 181.534, 326.603, 326.607, 342.223 and 342.232 (criminal records
23 checks);

24 (h) ORS 329.045 (academic content standards and instruction);

25 (i) ORS 329.451 (high school diploma, modified diploma, extended diploma
26 and alternative certificate);

27 (j) The statewide assessment system developed by the Department of Ed-
28 ucation for mathematics, science and English under ORS 329.485 (2);

29 (k) ORS 337.150 (textbooks);

30 (L) ORS 339.141, 339.147 and 339.155 (tuition and fees);

31 (m) ORS 339.250 (12) (prohibition on infliction of corporal punishment);

1 (n) ORS 339.326 (notice concerning students subject to juvenile court pe-
2 titions);

3 (o) ORS 339.370, 339.372, 339.388 and 339.400 (reporting of abuse and sex-
4 ual conduct and training on prevention and identification of abuse and sex-
5 ual conduct);

6 (p) ORS chapter 657 (Employment Department Law);

7 (q) ORS 659.850, 659.855 and 659.860 (discrimination);

8 (r) Any statute or rule that establishes requirements for instructional
9 time provided by a school during each day or during a year;

10 (s) Health and safety statutes and rules;

11 (t) Any statute or rule that is listed in the charter;

12 (u) ORS 339.119 (consideration for educational services); and

13 (v) This chapter.

14 (2) Notwithstanding subsection (1) of this section, a charter may specify
15 that statutes and rules that apply to school district boards, school districts
16 and other public schools may apply to a public charter school.

17 (3) If a statute or rule applies to a public charter school, then the terms
18 “school district” and “public school” include public charter school as those
19 terms are used in that statute or rule.

20 (4) A public charter school may not violate the Establishment Clause of
21 the First Amendment to the United States Constitution or section 5, Article
22 I of the Oregon Constitution, or be religion based.

23 (5)(a) A public charter school shall maintain an active enrollment of at
24 least 25 students.

25 (b) For a public charter school that provides educational services under
26 a cooperative agreement described in ORS 338.080, the public charter school
27 is in compliance with the requirements of this subsection if the public
28 charter school provides educational services under the cooperative agreement
29 to at least 25 students, without regard to the school districts in which the
30 students are residents.

31 (6) A public charter school may sue or be sued as a separate legal entity.

1 (7) The sponsor, members of the governing board of the sponsor acting in
2 their official capacities and employees of a sponsor acting in their official
3 capacities are immune from civil liability with respect to all activities re-
4 lated to a public charter school within the scope of their duties or employ-
5 ment.

6 (8) A public charter school may enter into contracts and may lease facil-
7 ities and services from a school district, education service district, public
8 university listed in ORS 352.002, other governmental unit or any person or
9 legal entity.

10 (9) A public charter school may not levy taxes or issue bonds under which
11 the public incurs liability.

12 (10) A public charter school may receive and accept gifts, grants and do-
13 nations from any source for expenditure to carry out the lawful functions
14 of the school.

15 (11) The school district in which the public charter school is located shall
16 offer a high school diploma, a modified diploma, an extended diploma or an
17 alternative certificate to any public charter school student who meets the
18 district's and state's standards for a high school diploma, a modified diploma,
19 an extended diploma or an alternative certificate.

20 (12) A high school diploma, a modified diploma, an extended diploma or
21 an alternative certificate issued by a public charter school grants to the
22 holder the same rights and privileges as a high school diploma, a modified
23 diploma, an extended diploma or an alternative certificate issued by a non-
24 chartered public school.

25 (13) Prior to beginning operation, the public charter school shall show
26 proof of insurance to the sponsor as specified in the charter.

27 (14) A public charter school may receive services from an education ser-
28 vice district in the same manner as a nonchartered public school in the
29 school district in which the public charter school is located.

30 **SECTION 7.** ORS 338.115, as amended by section 7, chapter 839, Oregon
31 Laws 2007, section 12, chapter 50, Oregon Laws 2008, section 4, chapter 618,

1 Oregon Laws 2009, section 3, chapter 53, Oregon Laws 2010, section 3, chap-
2 ter 94, Oregon Laws 2011, section 118, chapter 637, Oregon Laws 2011, section
3 5, chapter 682, Oregon Laws 2011, and section 10, chapter 92, Oregon Laws
4 2012, is amended to read:

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13 (f) ORS 326.565, 326.575 and 326.580 **and section 4 of this 2013 Act** (stu-
14 dent records);

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16 checks);

17 (h) ORS 329.045 (academic content standards and instruction);

18 (i) ORS 329.451 (high school diploma, modified diploma, extended diploma
19 and alternative certificate);

20 (j) ORS 329.496 (physical education);

21 (k) The statewide assessment system developed by the Department of Ed-
22 ucation for mathematics, science and English under ORS 329.485 (2);

23 (L) ORS 337.150 (textbooks);

24 (m) ORS 339.141, 339.147 and 339.155 (tuition and fees);

25 (n) ORS 339.250 (12) (prohibition on infliction of corporal punishment);

26 (o) ORS 339.326 (notice concerning students subject to juvenile court pe-
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28 (p) ORS 339.370, 339.372, 339.388 and 339.400 (reporting of abuse and sex-
29 ual conduct and training on prevention and identification of abuse and sex-
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- 1 (r) ORS 659.850, 659.855 and 659.860 (discrimination);
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- 3 time provided by a school during each day or during a year;
- 4 (t) Health and safety statutes and rules;
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- 6 (v) ORS 339.119 (consideration for educational services); and
- 7 (w) This chapter.

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9 that statutes and rules that apply to school district boards, school districts
10 and other public schools may apply to a public charter school.

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13 terms are used in that statute or rule.

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21 (14) A public charter school may receive services from an education ser-
22 vice district in the same manner as a nonchartered public school in the
23 school district in which the public charter school is located.

24 **SECTION 8. This 2013 Act being necessary for the immediate pres-**
25 **ervation of the public peace, health and safety, an emergency is de-**
26 **clared to exist, and this 2013 Act takes effect July 1, 2013.**

27