



Oregon Department of Education

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SB 187: Oregon Student Information Protection Act
House Education Committee
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Chair Doherty and members of the committee, for the record I am Ben Tate, Chief Information Officer at the Oregon Department of Education. I am here today to testify in favor of SB 187-A, which instructs operators of online education services to follow specific measures to protect the student information they collect as part of their agreements with schools and districts.

Background:

The safety, accuracy, and security of student education records is a critically important mission for the Oregon Department of Education. ODE has created a comprehensive Information Security and Privacy Program (<http://goo.gl/XmbtoC>) that incorporates security protections required by state and federal laws, state policy, and best business practices.

There are three primary risks to student data: human error and misuse; unsound processes and policies; and technology failures. We are in an age where the rapid rate of technical change leaves us more vulnerable to human error than in previous years.

ODE has measures in place to address these three areas for all department staff. We provide annual notices to school districts regarding the federal laws in place regarding student privacy and how to ensure their staff are in compliance. However, neither ODE nor district staff have direct access to all vendor staff who may have access to student data through the various relationships that districts have.

Each district specifies certain privacy provisions within the contracts they sign with vendors, and each contract must comply with FERPA. However, there are gaps within existing practices. What can a vendor do with data once the nature of the contract has been fulfilled? What is the recourse for a district if a vendor violates the terms of the contract?

Legislation:

SB 187 instructs operators of online education services to protect the student information they collect as part of their agreements with schools and districts. They are only allowed to disclose this information under very specific condition (i.e. at the request of the school) and only to very specific individuals (school district personnel). It also prohibits vendors from using educational software to target advertising to students and limits the vendors in the use the data.

SB 187 addresses those gaps that exist and provides an additional layer of protection for students and districts. This allows school districts to continue to access the tools they need from the vendor community to positively impact education. It holds the vendor community accountable for fulfilling the terms of the contracts, and not straying outside of those terms. It provides districts with a resource if a vendor does violate the terms of the contract.

There are two topics in this bill that I'd like to discuss in more detail. One is the concept of a "recommendation engine" and the other is parental consent.

The idea behind the recommendation engine is that a website would provide links to recommended additional materials based on what the student is working on. If they are doing work on *Tom Sawyer*, the recommendation engine might recommend the student also read *Huckleberry Finn*. This is a nuanced issue when it comes to student privacy. School districts value these types of recommendations. However, we need to ensure that we do not sacrifice student privacy as a result. I believe the language currently in this bill protects student privacy. SB 187 specifies that websites may provide these recommendations with the caveat that they do so based on a single search criteria ("Tom Sawyer") or single use of the search engine. Vendors are not allowed to compile a profile of behavior or allowed to utilize any protected information (name, age, ethnicity, etc) based on many search inquiries. This preserves the educational benefit without compromising the privacy of the student.

Parental consent is similarly a very nuanced issue. While parents do have the right to disclose whatever information they choose for searches done on family computers, this bill is focused on school district staff and the technology vendors they work with. The key question that needs to be asked is, "What is the educational benefit of disclosing this information?" The current language in the bill already has provisions that cover K-12 school purposes, so no additional language is needed.

SB 187 is an important step in increasing the protection available to our students and addressing some of the gaps in policy that have been created by the rapid rate of technical change in the last five years.

Thank you for considering this important piece of legislation for our students.

