WEST VIRGINIA CODE: §18B-1D-10

§18B-1D-10. State data sharing compact; legislative intent; findings; definitions.

(a) The intent of the Legislature in enacting this section is to direct the commission, council and State Board of Education to enter into a state compact, consistent with the provisions of section six of this article, on or before July 1, 2009, to develop and maintain a longitudinal education data system and to share educational information.

(b) The Legislature makes the following findings:

(1) Sound data collection, reporting and analysis are critical to building an education system capable of ensuring that all West Virginia students are adequately prepared for college and the global workforce. Elementary schools, middle schools, secondary schools and higher education institutions can improve instructional and educational decision-making using data that are collected and made available to them.

(2) State education policymaking benefits from partnerships between state education agencies and entities with expertise in education research. It is beneficial for West Virginia to establish systems and processes that permit qualified researchers to assist with state evaluation and research functions in a manner that is consistent with privacy protection laws.

(3) West Virginia is committed to establishing and maintaining a longitudinal student unit record data system that educators and policymakers can use to analyze and assess student progress beginning with early learning programs and continuing through post-secondary education and into employment. The commission, council and State Board of Education have designed, built and deployed some of the fundamental components of a longitudinal data system and have engaged in extensive efforts to link and use available education data effectively. Now, it is necessary to integrate and manage the various education data components in a cooperative manner to establish a data-driven, decision-making environment for this state's education system.

(4) Students will achieve improved learning outcomes because of the longitudinal data system established through the state compact mandated by this section.

(6) State use and management of education data shall be in accordance with all legal requirements protecting student privacy and shall protect personal information from intentional or accidental release to unauthorized persons and from intentional or accidental use for unauthorized purposes.

(c) Definitions:

(1) "Longitudinal data system" means a student unit record data system that links student

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records beginning with early learning programs and continuing through post-secondary education, entry into the workforce and beyond. The system may consist of separate student unit record systems integrated through agreement and data transfer mechanisms.

(2) "Privacy protection laws" means the federal Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g) and any other state or federal laws relating to the confidentiality and protection of personally identifiable information.

(3) "Research organization" means a governmental entity, institution of higher education, public policy organization or other person or entity conducting educational research that meets the following conditions:

(i) Qualified to perform educational research and protect the privacy of student data;

(ii) Seeks to perform research for a noncommercial purpose authorized by privacy protection laws; and

(iii) Agrees to perform the research pursuant to a written agreement meeting the requirements of privacy protection laws and best research practices.

(d) The state data-sharing compact entered into by the commission, council and State Board of Education shall contain the following:

(1) A plan to establish and maintain a longitudinal data system that links early learning, elementary, middle and secondary school student unit records with higher education institution student unit records;

(2) A plan to establish a data warehouse that integrates data from multiple student unit record systems and supports all of the uses and functions of the longitudinal data system;

(3) A list of areas for collaborative research and a preliminary plan for conducting that research;

(4) A system for entering into data sharing arrangements with each other and with research organizations consistent with subsection (f) of this section; and

(5) A provision that allows another party to the compact to review any draft report or study generated using that party's data at least ten days before the report or study is released publicly. During that ten day period, each party shall be given the opportunity to submit comments regarding the accuracy, conclusions and recommendations of the report or study.

(e) To facilitate implementation of the requirements of this section:

(1) The commission, council and State Board of Education are authorized to disclose data to the longitudinal data system and to each other consistent with the purposes of this section;

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(2) With the assistance of the state Board of Education, the commission, council and state institutions of higher education shall collect the state Board of Education's unique identifier for all students who have attended public schools in West Virginia to facilitate better matching of student unit record data.

(3) The commission, council and State Board of Education shall collect, use, maintain, disclose and share data in accordance with personal privacy laws and shall develop security measures and procedures that protect personal information from intentional or accidental release to unauthorized persons and from intentional or accidental use for unauthorized purposes.

(f) A data sharing arrangement entered into with a research organization pursuant to this section shall meet the following criteria:

(1) Permitted by and undertaken in accordance with privacy protection laws;

(2) Receives prior approval from the state Superintendent of Schools or designee, the Chancellor for Higher Education or designee, and the Chancellor for Community and Technical College Education or designee, as appropriate, if data from that entity are being utilized in the research;

(3) Prohibits the personal identification of any person by individuals other than authorized representatives of the research organization who have legitimate interests in the information;

(4) Ensures the destruction or return of the data when no longer needed for the authorized purposes under the data sharing arrangement;

(5) Performed pursuant to a written agreement with the research organization that does the following:

(A) Specifies the purpose, scope and duration of the data sharing arrangement;

(B) Requires the recipient of the data to use personally identifiable information from education records only to meet the purpose or purposes of the data sharing arrangement stated in the written agreement;

(C) Describes specific data access, use and security restrictions that the recipient will undertake; and

(D) Contains such other terms and provisions as the commission, council and State Board of Education, as appropriate, consider necessary or appropriate.

(g) As a condition of participating in state-level financial aid programs provided for in chapter eighteen-c of this code, the commission may require nonpublic institutions of higher education to provide data for the longitudinal data system and data warehouse.

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