

Myth vs. Fact Student Data Privacy

Myth: The *Every Student Succeeds Act* does not protect the privacy of the data that schools collect about students.

Fact: There are multiple provisions in the *Every Student Succeeds Act* that protect the privacy of students' data.

SEC. 1111. STATE PLANS.

(h) REPORTS.—

(1) ANNUAL STATE REPORT CARD.—

(i) PRIVACY.—

(1) IN GENERAL.—Information collected or disseminated under this section (including any information collected for or included in the reports described in subsection (h)) shall be collected and disseminated in a manner that protects the privacy of individuals consistent with section 444 of the General Education Provisions Act ([20 U.S.C. 1232g](#), commonly known as the ‘Family Educational Rights and Privacy Act of 1974’) and this Act.

TITLE II—PREPARING, TRAINING, AND RECRUITING HIGHQUALITY TEACHERS, PRINCIPALS, OR OTHER SCHOOL LEADERS

PART A—SUPPORTING EFFECTIVE INSTRUCTION

SEC. 2101. FORMULA GRANTS TO STATES.

(c) STATE USES OF FUNDS.—

(4) STATE ACTIVITIES.—

(B) TYPES OF STATE ACTIVITIES.—The activities described in this subparagraph are the following:

(xx) Supporting and developing efforts to train teachers on the appropriate use of student data to ensure that individual student privacy is protected as required by section 444 of the General Education Provisions Act (commonly known as the ‘Family Educational Rights and Privacy Act of 1974’) (20 U.S.C. 1232g) and in accordance with State student privacy laws and local educational agency student privacy and technology use policies.

SEC. 2103. LOCAL USES OF FUNDS.

(b) TYPES OF ACTIVITIES.—The programs and activities described in this subsection—
(3) may include, among other programs and activities—

(E) providing high-quality, personalized professional development that is evidence-based, to the extent the State (in consultation with local educational agencies in the State) determines that such evidence is reasonably available, for teachers, instructional leadership teams, principals, or other school leaders, that is focused on improving teaching and student learning and achievement, including supporting efforts to train teachers, principals, or other school leaders to—

(ii) use data to improve student achievement and understand how to ensure individual student privacy is protected, as required under section 444 of the General Education Provisions Act (commonly known as the ‘Family Educational Rights and Privacy Act of 1974’) (20 U.S.C. 1232g) and State and local policies and laws in the use of such data;

PART B—21ST CENTURY COMMUNITY LEARNING CENTERS

SEC. 4204. LOCAL COMPETITIVE SUBGRANT PROGRAM.

(b) APPLICATION.—

(2) CONTENTS.—Each application submitted under paragraph (1) shall include—
(D) an assurance that the proposed program was developed and will be carried out—
(i) in active collaboration with the schools that participating students attend (including through the sharing of relevant data among the schools), all participants of the eligible entity, and any partnership entities described in subparagraph (H), in compliance with applicable laws relating to privacy and confidentiality; and

SEC. 8523. PRIVACY OF ASSESSMENT RESULTS. (Current law maintained by ESSA)

Any results from an individual assessment referred to in this Act of a student that become part of the education records of the student shall have the protections provided in section 444 of the General Education Provisions Act.

Sec. 8531. PROHIBITION ON NATIONWIDE DATABASE. (Current law maintained by ESSA)

Nothing in this Act (other than section 1308(b)) shall be construed to authorize the development of a nationwide database of personally identifiable information on individuals involved in studies or other collections of data under this Act. (Note: Section 1308 provides for the coordination of school records for migrant students who move from school district to school district due to their parents' migratory work activities.)

SEC. 8545. SENSE OF CONGRESS ON PROTECTING STUDENT PRIVACY.

(a) FINDINGS.—The Congress finds as follows:

- (1) Students' personally identifiable information is important to protect.
 - (2) Students' information should not be shared with individuals other than school officials in charge of educating those students without clear notice to parents.
 - (3) With the use of more technology, and more research about student learning, the responsibility to protect students' personally identifiable information is more important than ever.
 - (4) Regulations allowing more access to students' personal information could allow that information to be shared or sold by individuals who do not have the best interest of the students in mind.
 - (5) The Secretary has the responsibility to ensure every entity that receives funding under this Act holds any personally identifiable information in strict confidence.
- (b) SENSE OF CONGRESS.—It is the sense of the Congress that the Secretary should review all regulations addressing issues of student privacy, including those under this Act, and ensure that students' personally identifiable information is protected.

SEC. 8548. PRIVACY.

The Secretary shall require an assurance that each grantee receiving funds under this Act understands the importance of privacy protections for students and is aware of the responsibilities of the grantee under section 444 of the General Education Provisions Act (20 U.S.C. 1232g) (commonly known as the 'Family Education Rights and Privacy Act of 1974').