Section 1. LIMITATIONS ON COLLECTION OF STUDENT INFORMATION.

1. DEFINITIONS.

As used in this section:

1. the term “student database” shall mean the Georgia Statewide Longitudinal Data System, including the “GA Awards” data system, as well as any other data warehouse containing Georgia student information, including regional, interstate, or federal data warehouse organizations under contract to or with a memorandum of understanding with the Georgia Department of Education;
2. the terms “disclosure,” “education records,” “eligible student,” “parent,” “party,” “personally identifiable information,” “record,” and “student” shall have the same meaning as those terms are defined in 34 C.F.R. Part 99.3;
3. the term “biometric record” shall mean a record of one or more measurable biological or behavioral characteristics that can be used for automated recognition of an individual, including fingerprints, retina and iris patterns, voiceprints, DNA sequence (including newborn screening information), facial characteristics, and handwriting;
4. the term “teacher records” shall apply to teachers, paraprofessionals, principals, and other administrators and shall mean the following:
5. Social Security number;
6. name;
7. address;
8. birthdate;
9. email address and telephone number;
10. compensation information;
11. resume information;
12. performance evaluations; and
13. other information that, alone or in combination, is linked or linkable to a specific staff member that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the staff member with reasonable certainty;
14. the term “education program” shall mean a program of instruction administered by an education agency or education institution within the state;
15. the term “department” shall mean the Georgia Department of Education;
16. the term “state agencies” shall mean the Georgia Department of Education, the State Board of Education, the Education Coordinating Council, the Governor’s Office of Student Achievement, the Georgia Department of Early Care and Learning, the Georgia Student Finance Commission and companion student-finance agencies, the Georgia Professional Standards Commission, any regional education service agency, or any other state education entity;
17. the term “education institution” or “institution” shall mean any public or private elementary or secondary school or institution of higher education;
18. the term “written consent” shall mean written consent given within six months before the data-collection or –disclosure consented to, specifically referencing that data-collection or –disclosure, and dated and signed on the same day;
19. the term “workforce information” shall mean information related to Unemployment Insurance (UI), wage records, UI benefit claims, or employment and earnings data from workforce data sources, such as state wage records, Wage Record Interchange System (WRIS), or the Federal Employment Data Exchange System (FEDES);
20. the term “cloud computing service” shall mean a service that enables on-demand network access to a shared pool of configurable computing resources (*e.g.,* networks, servers, storage, applications, and services) to provide a student, teacher, or staff member account-based productivity applications such as email, document storage and document editing that can be rapidly provisioned and released with minimal management effort, or cloud-computing service-provider interaction. A cloud computing service has the characteristics of on-demand self-service, broad network access, resource pooling, rapid elasticity, and measured service;
21. the term “cloud computing service provider” shall mean an entity, other than an education institution, that operates a cloud computing service;
22. the term “process” or “processing” shall mean to use, access, manipulate, scan, modify, transform, disclose, store, transmit, transfer, retain, aggregate, or dispose of student or teacher data;
23. the term “affective computing” shall mean systems and devices that can or attempt to recognize, interpret, process, or simulate aspects of human feelings or emotions;
24. the term “psychological resources” shall mean noncognitive, emotional characteristics, attributes, and skills, including mindsets, learning strategies, and effortful control, used by an individual to address or manage various life situations;
25. the term “intrapersonal resources” or “intrapersonal skills” shall mean noncognitive emotional and psychological characteristics and attributes used to manage emotions and attitudes within an individual;
26. the term “interpersonal resources” or “interpersonal skills” shall mean noncognitive, emotional, and psychological characteristics and attributes and skills used to manage relationships and interactions among between or among individuals;
27. the term “track” shall mean to collect and maintain records of a student’s activities once he exits the educational system, including but not limited to his entrance into and progression through the workforce or the military; and
28. the term “predictive modeling” shall mean use of educational data-mining methods to make predictions about future behaviors or performance.
29. TYPES OF DATA THAT MAY BE COLLECTED.
30. Student data collected by any state agency or education institution without the written consent of parents or eligible students shall be limited to the following:
31. name, address, email address, and family contact information;
32. state and national assessment results;
33. course taking and completion, and credits earned;
34. course grades and grade point average;
35. date of birth, grade level, and expected graduation date/graduation cohort;
36. degree, diploma, or credential attainment;
37. enrollment;
38. attendance and transfers;
39. medical, health, and mental-health records limited to immunization records required by state law, records needed or created by a school-based health professional for administering prescription drugs or otherwise treating a student at school, records needed or created by a school-based counselor when a student seeks counseling while at school, or records required by the Individuals with Disabilities Education Act, 20 USC Section 1400 *et seq.*;
40. discipline reports limited to objective information about disciplinary incidents or, for institutions of higher education, objective information sufficient to produce the Title IV Annual Incident Report pursuant to the Clery Act, 20 USC Section 1092(f);
41. juvenile delinquency or other criminal or correctional records if necessary to meet the educational needs of the student or to ensure staff or student safety, provided that an institution of higher education may collect records sufficient to produce the Title IV Annual Incident Report pursuant to the Clery Act, 20 USC Section 1092(f), and may collect law enforcement unit records in accordance with 34 C.F.R. 99.8;
42. remediation data;
43. special-education data, limited to data required by the Individuals with Disabilities Education Act, 20 USC Section 1400 *et seq.*;
44. demographic data limited to that required by the Elementary and Secondary Education Act (race, economic status, disability status, English proficiency status);
45. student workforce information, limited to information related to work-study programs participated in for academic credit;
46. student or family Social Security numbers only if needed by an institution of higher education to comply with state or federal law;
47. student or family income data, limited to data required by law to determine eligibility to participate in or receive financial assistance under a program; and
48. information about extracurricular activities, limited to activities that are school-sponsored or engaged in for academic credit.
49. Unless explicitly mandated by federal statute, a state agency or education institution must obtain written consent from parents or eligible students before collecting any data points other than those listed in subsection (1) of this section, including but not limited to the following:
50. medical, health (including height, weight, and body mass index), and mental health records, except as provided in subsection (b)(1)(I) of this section;
51. student or family workforce information, except as provided in subsection (b)(1)(O) of this section;
52. student biometric records;
53. any data collected via affective computing, including analysis of facial expressions, EEG brain wave patterns, skin conductance, galvanic skin response, heart-rate variability, pulse, blood volume, posture, and eye-tracking;
54. any data (including any resulting from state or national assessments) that measure psychological resources, mindsets, learning strategies, effortful control, attributes, dispositions, social skills, attitudes, or intrapersonal resources;
55. any data collected through predictive modeling; and
56. information about student or family religious affiliation.
57. No funds, whether from federal Race to the Top grants, American Reinvestment and Recovery Act funds, or elsewhere, shall be used on construction, enhancement, or expansion of any data system that does not comply with these limitations, or that is designed to track students beyond their K-12 or postsecondary-education careers or compile their personal, nonacademic information beyond what is necessary for either administrative functions directly related to the student’s education, or evaluation of academic programs and student progress.
58. No state agency or education institution shall pursue or accept any grant, whether from the federal government or any private entity, that would require collecting or reporting any types of data in violation of subsection (b) of this section.
59. TRANSPARENCY OF DATA SYSTEM.
60. State agenciesand education institutions shall publicly and conspicuously disclose on their websites the existence and character of any personally identifiable information from education records or teacher records maintained by the agencies or education institutions, directly or through contracts with outside parties. Education institutions shall annually notify parents, eligible students, and teachers of this website posting. State agencies shall also provide annual electronic notification of this information to the chairs of the Senate Education and Youth Committee and House Education Committee. Such disclosure and electronic notifications shall include the following:
61. the legal authority that authorizes the establishment and existence of the data repository;
62. the principal purpose or purposes for which the information is intended to be used;
63. the categories of individuals on whom records are maintained in the data repository;
64. the categories of records maintained in the data repository;
65. each expected disclosure of the records contained in the data repository, including the categories of recipients and the purpose of such disclosure;
66. the policies and practices of the state agency or education institution regarding storage, retrievability, access controls, retention, and disposal of the records;
67. the title and business address of the official who is responsible for the data repository, and the name and business address of any contractor or other outside party maintaining the data repository for or on behalf of the state agency or education institution;
68. the procedures whereby parents or eligible students, or teachers, can be notified at their request if the data repository contains a record pertaining to that student or teacher; and
69. the procedures whereby parents or eligible students, or teachers, can be notified at their request how to gain access to any record pertaining to that student or teacher contained in the data repository, and how they can contest its content.
70. Upon request, parents and eligible students shall be provided a printed copy of their education records that are held in an education database, and shall have the right to correct those education records in a manner that is consistent with requirements of state and federal law.
71. State agencies shall use only aggregate data in published reports.

Section 2. LIMITATIONS ON ADOPTING OR ADMINISTERING CERTAIN TYPES OF ASSESSMENTS.

No state or national student assessment shall be adopted or administered in this state that collects any type of psychological data, including assessment of noncognitive skills or attributes, psychological resources, mindsets, learning strategies, effortful control, attitudes, dispositions, social skills, or other interpersonal or intrapersonal resources.

Section 3. LIMITATIONS ON COLLECTION OF SENSITIVE INFORMATION.

No state agency, district board of education, or PreK-12 education institution shall administer any student survey, assessment, analysis, evaluation, or similar instrument that solicits information about the student or the student’s family concerning the following:

1. political affiliations or beliefs;
2. mental or psychological problems, psychological resources, mindsets, learning strategies, effortful control, attributes, dispositions, social skills, attitudes, or intrapersonal resources;
3. sexual behavior or attitudes;
4. illegal, antisocial, self-incriminating, or demeaning behavior;
5. critical appraisals of another individual with whom a student has a close family relationship;
6. legally recognized privileged or analogous relationships, such as those with a lawyer, physician, or clergyman;
7. religious practices, affiliations, or beliefs;
8. personal or family gun ownership; or
9. income or other income-related information except that required by law to determine eligibility to participate in or receive financial assistance under a program.

Section 4. LIMITATIONS ON DISCLOSURE OF PERSONALLY IDENTIFIABLE INFORMATION TO THIRD PARTIES.

1. Subject to the exceptions contained in this Code provision, access to student education records in the student database shall be restricted to the authorized representatives of the state agency or education institution who require such access to perform their assigned duties. No party may be designated an “authorized representative” unless that party is on the staff and under the direct control of the designating state agency or institution.
2. Subject to the exceptions contained in this Code provision, no personally identifiable student or teacher data shall be disclosed without the written consent of the parents or eligible students, or of the affected teachers.
3. RESEARCH AND STUDIES.
4. The Department shall develop and publish criteria for the approval of research-related data requests from state and local governmental agencies, the state legislature, academic researchers, and the public.
5. Personally identifiable information from an education record of a student, or from teacher records, may not be released to a party conducting studies for or on behalf of the state agencies or education institutions without the written consent of the parent or eligible student, or of the affected teacher, except to:
6. Develop, validate, or administer assessments; or
7. Administer student-aid programs;

provided that the outside party conducting the study meets all the requirements for contractors set forth in subsection (e) of this section.

1. AUDITS, EVALUATIONS, AND COMPLIANCE.

In conducting any audit or evaluation of an education program, or any compliance or enforcement activity in connection with legal requirements that relate to state- or district-supported education programs, when such audit, evaluation, or activity involves access to personally identifiable student or teacher information, education records and teacher records may be released only to authorized representatives of state agencies, district boards of education, or institutions. No party may be designated an “authorized representative” unless that party is on the staff and under the direct control of the designating state agency, district board, or institution.

1. OUTSOURCING.
2. State agencies, district boards of education, and institutions may not disclose personally identifiable information from education records or teacher records without the written consent of parents or eligible students or of the affected teachers, to a contractor, consultant, or other party to whom the state agency, district board, or institution has outsourced institutional services or functions unless that outside party:
3. performs an institutional service or function for which the state agency, district board, or institution would otherwise use its employees;
4. is under the direct control of the state agency, district board, or institution with respect to the use and maintenance of education records or teacher records;
5. limits internal access to education records or teacher records to those individuals who require access to those records for completion of the contract;
6. does not use the education records or teacher records for any purposes other than those explicitly authorized in the contract;
7. does not disclose any personally identifiable information from education records or teacher records to any other party:
8. without the written consent of the parent or eligible student, or the affected teacher; or
9. unless required by statute or court order and the party provides a notice of the disclosure to the state agency, district board, or institution that provided the information no later than the time the information is disclosed, unless providing notice of the disclosure is expressly prohibited by the statute or court order;
10. maintains reasonable administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of the personally identifiable student or teacher data in its custody;
11. uses encryption technologies to protect data while in motion or in its custody from unauthorized disclosure using a technology or methodology specified by the Secretary of the U.S. Department of Health and Human Services in guidance issued under section 13402(H)(2) of Public Law 111-5;
12. has sufficient administrative and technical procedures to monitor continuously the security of personally identifiable student or teacher data in its custody;
13. conducts a security audit annually and provides the results of that audit to each state agency, district board, or institution that provides education records or teacher records;
14. provides the state agency, district board, or institution with a breach-remediation plan acceptable to the state agency, district board, or institution before initial receipt of education records or teacher records;
15. reports all suspected security breaches to the state agency, district board, or institution that provided education records or teacher records as soon as possible but not later than forty-eight hours after a suspected breach was known or would have been known by exercising reasonable diligence;
16. reports all actual security breaches to the state agency, district board, or institution that provided education records as soon as possible but not later than twenty-four hours after an actual breach was known or would have been known by exercising reasonable diligence;
17. in the event of a security breach or unauthorized disclosure of personally identifiable information, pays all costs and liabilities incurred by the state agency, district board, or institution related to the security breach or unauthorized disclosure, including but not limited to the costs of responding to inquiries about the security breach or unauthorized disclosure, of notifying subjects of personally identifiable information about the breach, of mitigating the effects of the breach for the subjects of the personally identifiable information, and of investigating the cause or consequences of the security breach or unauthorized disclosure; and
18. destroys or returns to the state agency, district board, or institution all personally identifiable information in its custody upon request and at the termination of the contract.
19. ACTIONS REQUIRED IN CASE OF SECURITY BREACH OR UNAUTHORIZED DISCLOSURE.

In the event of a security breach or unauthorized disclosure of personally identifiable student or teacher data, whether by a state agency, district board, or education institution, or by a third party given access to education records or teacher records pursuant to subsections (c), (d), or (e) of this section, the state agency, district board, or education institution shall:

1. Immediately notify the subjects of the breach or disclosure;
2. Report the breach or disclosure to the Family Policy Compliance Office of the U. S. Department of Education; and
3. Investigate the causes and consequences of the breach or disclosure.
4. COMMERCIAL USE PROHIBITED.
5. Personally identifiable information from education records or teacher records may not be disclosed to any party for a commercial use, including but not limited to marketing products or services, compilation of lists for sale or rental, development of products or services, or creation of individual, household, or group profiles.
6. Any cloud computing service provider performing services for a state agency, district board, or institution is prohibited from using information from education records or teacher records for any secondary purposes that benefit the cloud computing service provider or any third party, including but not limited to online behavioral advertising, creating or correcting an individual or household profile primarily for the cloud computing service provider’s benefit, the sale of the data for any commercial purpose, or any other similar commercial for-profit activity; provided, however, that a cloud computing service provider may process or monitor student data solely to provide such service to the state agency, district board, or institution, and to maintain the integrity of such service.
7. Any cloud computing service provider that enters into an agreement to provide cloud computing services to a state agency, district board, or institution shall certify in writing to that state agency, district board, or institution that it will comply with the terms and conditions set forth in subsection (e) of this section; and that the state agency, district board, or institution maintains ownership of all student and teacher data.
8. Any student or teacher data stored by a cloud computing service provider shall be stored within the boundaries of the United States.
9. PREDICTIVE MODELING PROHIBITED.

No student data shall be used for predictive modeling for detecting behaviors, beliefs, or value systems, or predicting or forecasting student outcomes.

1. LIMITATIONS ON VIDEO MONITORING.

There shall be no video monitoring of classrooms for any purpose, including for teacher evaluation, without the approval of the district school board after public hearings and the written consent of the teacher, of all eligible students, and of the parents of all other students in the classroom.

1. INTERAGENCY DISCLOSURE PROHIBITED.

Personally identifiable information from education records or teacher records may not be disclosed to any non-education government agency, including but not limited to the Georgia Department of Labor, whether within or outside the state, or to any party that intends to use or disclose the information or data for the purpose of workforce-development or economic planning.

1. LIMITATIONS ON INTERSTATE DISCLOSURE.

Subject to the provisions of subsections (c), (d), (e), (k), and (m) of this section, personally identifiable information from education records or teacher records may not be disclosed to any government agency or other entity outside the state, except disclosure may be made in the following circumstances:

1. to an institution attended by a student who has transferred out of state;
2. to an out-of-state program in which a student voluntarily participates and for which such a data transfer is a condition or requirement of participation; or
3. when a student is classified as a “migrant” for federal reporting purposes.
4. LIMITATIONS ON DISCLOSURE TO FEDERAL GOVERNMENT.
5. No personally identifiable information from education records or teacher records may be disclosed to any federal agency, including the U. S. Department of Education or the U. S. Department of Labor or their representatives, unless:
6. such disclosure is required by the U. S. Department of Education as a condition of receiving a federal education grant;
7. the U. S. Department of Education agrees in writing to use the information from the education records or teacher records only to evaluate the program or programs funded by the grant;
8. the U. S. Department of Education agrees in writing that the information will not be used for any research beyond that related to evaluation of the program or programs funded by the grant, unless the parent or eligible student, or any teacher, whose information or data will be used for such evaluation affirmatively consents in writing to that use;
9. the U. S. Department of Education agrees in writing to destroy the information or data upon completion of the evaluation of the program or programs for which the information or data were compiled; and
10. the grant or program in connection with which the information or data are required is one explicitly authorized by federal statute or by federal rule properly promulgated under the federal Administrative Procedure Act, 5 U.S.C. Section 500 *et seq.*
11. If the U. S. Department of Education requires, as a condition of making a federal education grant, that the grant recipient disclose student information or teacher data under circumstances that do not comply with paragraph (1) of this subsection, the grant recipient shall obtain written consent from the parents of every student, or from eligible students, whose information will be disclosed, or from every teacher whose data will be disclosed.
12. If the U. S. Department of Education demands personally identifiable student information, or teacher data, without the written consent of the affected parents, eligible students, or teachers, the grant recipient shall provide written notification to those parents, eligible students, and teachers of the following:
13. that the grant recipient has been required to disclose the student’s information or the teacher’s data to the U. S. Department of Education;
14. that neither the grant recipient nor any other entity within the state of Georgia will have control over use or further disclosure of that information or data; and
15. the contact information, including the name, telephone number, and email address of the U. S. Department of Education official who demands the disclosure.
16. DISCLOSURE TO ASSESSMENT CONSORTIUM OR COMPANY.

State agencies, district boards, or institutions shall not disclose student or teacher information to any assessment consortium of which the state is a member, or company with which the state contracts for development and/or administration of any assessment, unless:

1. the information is transmitted in non-individual record format;
2. the information is limited to information directly related to the assessment, such as a student’s grade level and test scores; and
3. no psychological information of any kind (including that listed in section 2 of this Code provision) is included as part of the test scores.
4. DESTRUCTION OF DATA.

An education institution shall destroy and remove from the student database all education records of a student within five years of the student’s graduation from that institution, provided that the institution may retain records showing dates of attendance, diploma or degree(s) received, and contact information. If a student withdraws from an education institution before graduating, the institution shall, within one year of the student’s withdrawal, destroy and remove from the database all education records of that student except records showing dates of attendance.

Section 5. PENALTIES AND ENFORCEMENT.

(a) Each violation of any provision of this section by an organization or entity other than a state agency, a district board of education, or an institution as defined in section 1 of this subsection shall be punishable by a civil penalty of up to one thousand dollars; a second violation by the same organization or entity involving the education records and privacy of the same student shall be punishable by a civil penalty of up to five thousand dollars; any subsequent violation by the same organization or entity involving the education records and privacy of the same student shall be punishable by a civil penalty of up to ten thousand dollars; and each violation involving a different individual education record or a different individual student shall be considered a separate violation for purposes of civil penalties;

(b) The attorney general shall have the authority to enforce compliance with this section by investigation and subsequent commencement of a civil action, to seek civil penalties for violations of this section, and to seek appropriate injunctive relief, including but not limited to a prohibition on obtaining personally identifiable information for an appropriate time period. In carrying out such investigation and in maintaining such civil action, the attorney general or any deputy or assistant attorney general is authorized to subpoena witnesses, compel their attendance, examine them under oath, and require that any books, records, documents, papers, or electronic records relevant to the inquiry be turned over for inspection, examination, or audit, pursuant to the Georgia Civil Practice Act, OCGA section 9-11-1 *et seq.* and rules; subpoenas issued pursuant to this paragraph may be enforced pursuant to the civil practice law and rules.

(c) Nothing contained herein shall be construed as creating a private right of action against a state agency, a district board of education, or an institution as defined in section 1 of this Code provision.

Section 6. This act shall take effect July 1, 2014, and shall apply to school years beginning with the 2014-2015 academic year.