2015 Student Data Privacy Legislation: A Mid-Season Review

As of April 2, 2015, 42 states have introduced 165 bills and have passed four laws on student data privacy this year.

New Student Privacy Laws

Virginia
- HB 2350 directs the state department of education and the Virginia Information Technologies Agency to develop a model data security plan for districts. Requires the designation of a chief data security officer to assist local school divisions with the development or implementation of data use and security policies.
- HB 1334 requires the state department of education to develop policies ensuring state and local compliance with federal and state privacy laws. Requires parental notification in instances of possible disclosures of electronic records in violation of FERPA.
- HB 1698 requires parental notice and allows opt-out of any survey on “sensitive” topics.

Utah
- HB 163 requires an education entity to notify parents if there is a release of their student's PII due to a security breach.

2015 Themes

Role of Third Party Service Providers

In 2014, California passed the Student Online Personal Information Protection Act (SOPIPA), a law that governs the activities of online education service providers by, in part, prohibiting the collection or use of student data for commercial purposes.
- In 2015, 15 states (AR, CT, FL, GA, HI, IL, IA, MD, MA, MN, MS, NH, NY, NC, OR) have introduced bills based on SOPIPA.
- 10 states (AZ, CO, ME, MO, NV, OR, TX, UT, VA, WA) have introduced bills based on a model written by Microsoft; this model contains similar provisions to SOPIPA.
- Representatives Jared Polis (D-CO) and Luke Messer (R-IN) plan to soon introduce The Student Digital Privacy and Parental Rights Act, a federal bill inspired by SOPIPA and informed by conversations with a broad array of education and education technology stakeholders.

Capacity Building and Local Supports

In 2014, 28 state bills (and nine laws) charged school districts with new responsibilities in safeguarding data and ensuring data quality. States must now help districts build their capacity by providing supports such as staff data privacy training, model contract language for working with service providers, and privacy and security policy language.
- For example, a new law in Virginia requires model data security plans and related TA for districts. North Dakota introduced a bill that would require privacy and data use training for any staff with access to the state’s data system.
- The Department of Education’s Privacy Technical Assistance Center (PTAC) is providing additional resources to states and districts including model terms of service for working with online service providers.