

HOUSE BILL No. 2505

By Committee on Education

1-20

1 AN ACT concerning education; relating to college and career readiness
2 assessments administered by national assessment providers; providing
3 exemptions for such assessments under the student data privacy act and
4 the student online personal protection act; amending K.S.A. 72-6316
5 and 72-6332 and repealing the existing sections.
6

7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 72-6316 is hereby amended to read as follows: 72-
9 6316. (a) *Except as provided in subsection (b)*, no test, questionnaire,
10 survey or examination containing any questions about the student's
11 personal beliefs or practices on issues such as sex, family life, morality or
12 religion, or any questions about the student's parents' or guardians' beliefs
13 and practices on issues such as sex, family life, morality or religion, shall
14 be administered to any student enrolled in kindergarten or grades one
15 through 12, unless the parent or guardian of the student is notified in
16 writing that this test, questionnaire, survey or examination is to be
17 administered and the parent or guardian of the student gives written
18 permission for the student to take this test, questionnaire, survey or
19 examination.

20 (b) *When a national assessment provider intends to administer a*
21 *college and career readiness assessment questionnaire or survey to any*
22 *student enrolled in kindergarten or grades one through 12, the parent or*
23 *guardian of a student who is to be given such questionnaire or survey*
24 *shall be notified in writing that such questionnaire or survey is to be*
25 *administered and shall be provided the opportunity to decline such*
26 *student's participation. No prior written permission from such student's*
27 *parent or guardian shall be required before such questionnaire or survey*
28 *is administered.*

29 (c) This section shall not prohibit school counselors from providing
30 counseling services to a student, including the administration of tests and
31 forms ~~which~~ *that* are part of a counselor's student counseling services. Any
32 information obtained through such tests or counseling services shall not be
33 stored on any personal mobile electronic device ~~which~~ *that* is not owned
34 by the school district, including but not limited to, laptops, tablets, phones,
35 flash drives, external hard drives or virtual servers.

36 Sec. 2. K.S.A. 72-6332 is hereby amended to read as follows: 72-

1 6332. As used in K.S.A. 72-6331 through 72-6334, and amendments
2 thereto:

3 (a) "Educational purposes" means purposes that are directed by an
4 employee or agent of a school district, that customarily take place at an
5 attendance center operated by a school district or that aid in the
6 administration of school activities, including, but not limited to, instruction
7 in the classroom or at home, administrative activities and collaboration
8 between students, school personnel or parents, or which are otherwise for
9 the use and benefit of the school district.

10 (b) "Interactive computer service" means any service, system or
11 software provider that provides or enables multiple users access to a
12 computer server, including a service or system that provides access to the
13 internet and systems or services offered by libraries or educational
14 institutions.

15 (c) "Educational online product" means an internet website, online
16 service, online application or mobile application that is used primarily, and
17 was designed and marketed for, educational purposes.

18 (d) (1) "Operator" means, to the extent it is operating in this capacity,
19 the operator of an educational online product with actual knowledge that
20 the educational online product is used primarily for educational purposes
21 and was designed and marketed for educational purposes. ~~For the purposes~~
22 ~~of this act,~~

23 (2) The term "operator" ~~shall not be construed to~~ *does not* include:

24 (A) Any school district or school district employee acting on behalf of
25 a school district employer; *or*

26 (B) *any national assessment provider that is administering a college*
27 *and career readiness assessment.*

28 (e) "Personally identifiable information" means information that
29 personally identifies an individual student or that is linked to information
30 that personally identifies an individual student, including, but not limited
31 to: (1) Information in the student's educational record or electronic mail;
32 (2) first and last name; (3) home address; (4) telephone number; (5)
33 electronic mail address; (6) any other information that allows physical or
34 online contact with the student; (7) discipline records; (8) test results; (9)
35 data that is a part of or related to any individualized education program for
36 such student; (10) juvenile dependency records; (11) grades; (12)
37 evaluations; (13) criminal records; (14) medical records; (15) health
38 records; (16) social security number; (17) biometric information; (18)
39 disabilities; (19) socioeconomic information; (20) food purchases; (21)
40 political affiliations; (22) religious information; (23) text messages; (24)
41 documents; (25) student identifiers; (26) search activity; (27) photos; (28)
42 voice recordings; or (29) geolocation information.

43 (f) "School district" means any unified school district organized and

1 operating under the laws of this state.

2 (g) "Service provider" means a person or entity that provides a
3 service to an operator, or provides a service that enables users to access
4 content, information, electronic mail or other services offered over the
5 internet or a computer network.

6 (h) "Student information" means personally identifiable information
7 or material in any media or format that is not otherwise available to the
8 public and was:

9 (1) Created by an operator in the course of the use of the operator's
10 educational online product for educational purposes;

11 (2) provided to an operator by a student, or the student's parent or
12 legal guardian, in the course of the use of the operator's educational online
13 product for educational purposes;

14 (3) created by an operator as a result of the activities of an employee
15 or agent of a school district;

16 (4) provided to an operator by an employee or agent of a school
17 district for educational purposes; or

18 (5) gathered by an operator through the operation of such operator's
19 educational online product for educational purposes.

20 (i) "Targeted advertising" means presenting an advertisement to a
21 student where the advertisement is selected based on information obtained
22 or inferred over time from that student's online behavior, usage of online
23 applications or student information. Targeted advertising does not include
24 advertising to a student at an online location based upon that student's
25 current visit to that location, or in response to that student's request for
26 information or feedback, without the retention of that student's online
27 activities or requests over time for the purpose of targeting subsequent ads.

28 Sec. 3. K.S.A. 72-6316 and 72-6332 are hereby repealed.

29 Sec. 4. This act shall take effect and be in force from and after its
30 publication in the statute book.