

**NOT yet reviewed by editors**

1                                    *Student Privacy – Online Identifiable Information*  
2                                    *(from draft provided by the Agency of Education)*

3                    9 V.S.A. chapter 62, subchapter 5 is added to read:

4                    SUBCHAPTER. 5. STUDENTS; COVERED INFORMATION; ONLINE  
5                                    LEARNING OPPORTUNITIES; PRIVACY

6                    § 2447. DEFINITIONS.

7                    As used in this subchapter:

8                    (1) “Covered information” means:

9                                    (A) “personal information,” as that term is defined in 15 U.S.C.  
10 chapter 91, collected about a Vermont elementary or secondary student from  
11 the student or from an employee or agent of a school, a school district, or a  
12 supervisory union about the student, in connection with school purposes; and

13                                    (B) other information about the student, including the student’s  
14 hobbies or interests, when it is linked to personal information.

15                    (2) “Operator” shall have the same meaning as in 15 U.S.C. chapter 91.

16                    (3) “School” means a Vermont public school [or an approved  
17 independent school that receives publicly funded tuition dollars from a  
18 Vermont school district].

19                    (4)(A) “School purpose” means a purpose that:

20                                    (i) is intended to promote student learning and otherwise aid in the  
21 performance of school-related activities, including instruction in or outside the

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1 classroom; collaboration between students, school personnel, and parents or  
2 guardians; and the administration of a classroom, school, school district, or  
3 supervisory union; and

4 (ii) involves activities that take place at the direction of an  
5 employee or agent of a school, school district, or supervisory union.

6 (B) The Secretary may adopt written standards further defining a  
7 “school purpose” either on the Secretary’s initiative or at the request of an  
8 operator, a school district or supervisory union, or a member of the public.

9 § 2448. COVERED INFORMATION; ONLINE DATA; PRIVACY

10 (a) An operator shall not knowingly use covered information collected by  
11 or acquired in connection with its website, online service, or online or mobile  
12 application in order to:

13 (1) engage in targeted advertising on the site, service, or application or  
14 on any other the site, service, or application;

15 (2) to create a profile of a student, except as necessary to advance a  
16 school purpose;

17 (b) An operator shall not sell covered information collected by or acquired  
18 in connection with its website, online service, or online or mobile application,  
19 except if sold in connection with an entity’s acquisition of the operator and if  
20 the operator or successor entity is subject to the provisions of this subchapter in  
21 connection with all covered information acquired before the acquisition;

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1       (c) An operator shall not disclose covered information collected by or  
2       acquired in connection with its website, online service, or online or mobile  
3       application, unless the disclosure is made:

4           (1) to advance the school purpose of the site, service, or application by  
5       enabling or improving functionality of the site, service, or application within a  
6       school or classroom or by improving the security of the site, service, or  
7       application; provided, however, that the recipient of the disclosed information  
8       shall comply with the provisions of this subchapter and shall use the covered  
9       information solely for the school purpose for which it was disclosed;

10          (2) to comply with any State or federal law; or

11          (3) to respond to or participate in a judicial proceeding.

12       (d) Nothing in this section shall prohibit an operator's use of covered  
13       information to maintain, develop, support, improve, or analyze the operator's  
14       site, service, or application.

15       (e) An operator shall implement and maintain reasonable security  
16       procedures appropriate to the nature of the covered information that protects  
17       the covered information from unauthorized access, destruction, use,  
18       modification, or disclosure.

19       § 2449. ENFORCEMENT

20       A person who violates the provisions of this [sub]chapter shall be  
21       considered to have engaged in an unfair or deceptive trade practice in violation

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1 of chapter 63 of this title, Consumer Protection; provided, however, that this  
2 section shall not be construed to limit liability to that chapter.

3

4 *[to be added to effective date section]*

5 ( ) Sec. \_\_\_\_\_ (personally identifiable information) shall take effect on July 1,  
6 2017.