

Attachment #9

An Act Relating to Public Utilities and Carriers – Duties of Public Utilities and Carriers
(The LC000698 draft version and the Public Utilities and Carriers draft version)

2019 --

LC000698

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS - DUTIES OF PUBLIC UTILITIES
AND CARRIERS

Introduced By:

Date Introduced:

Referred To:

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 39-2 of the General Laws entitled "Duties of Utilities and Carriers"
2 is hereby amended by adding thereto the following section:

3 39-2-20.2. Internet service providers. Student online personal information
4 protection.

5 (a) Definitions.

6 (1) "Covered information" means personally identifiable information or materials, in any
7 media or format that meets any of the following:

8 (i) Is created or provided by a student, or the student's parent or legal guardian, to an
9 operator in the course of the student's, parent's, or legal guardian's use of the operator's site,
10 service, or application for K-12 school purposes.

11 (ii) Is created or provided by an employee or agent of the K-12 school, school district,
12 local education agency, or state department of education, to an operator.

13 (iii) Is gathered by an operator through the operation of a site, service, or application
14 defined in this subsection and is descriptive of a student or otherwise identifies a student,
15 including, but not limited to, information in the student's educational record or email, first and
16 last name, home address, telephone number, email address, or other information that allows
17 physical or online contact, discipline records, test results, special education data, juvenile
18 dependency records, grades, evaluations, criminal records, medical records, health records, social

1 security number, biometric information, disabilities, socioeconomic information, food purchases,
2 political affiliations, religious information, text messages, documents, student identifiers, search
3 activity, photos, voice recordings, or geolocation information.

4 (2) "Internet service provider" means an entity offering the transmission, routing, or
5 providing of connections of digital online communications, between or among points specified by
6 a user, of material of the user's choosing, without modification to the content of the material as
7 sent or received and includes a provider of online services or network access, including entities
8 that provide an electronic communication service or remote computing service, but does not mean
9 the offering on a common carrier basis of telecommunication facilities or of telecommunications.

10 (3) "K-12 school purposes" means purposes that customarily take place at the direction of
11 the K-12 school, teacher, or school district or aid in the administration of school activities,
12 including, but not limited to, instruction in the classroom or at home, administrative activities,
13 and collaboration between students, school personnel, or parents, or are for the use and benefit of
14 the school.

15 (4) "Online service" includes cloud computing services, which must comply with this
16 section if they otherwise meet the definition of an operator.

17 (5) "Operator" means the operator of an Internet website, online service, online
18 application, or mobile application with actual knowledge that the site, service, or application is
19 used primarily for K-12 school purposes and was designed and marketed for K-12 school
20 purposes.

21 (b) An operator shall not knowingly engage in any of the following activities with respect
22 to their site, service, or application:

23 (1) Engage in targeted advertising on the operator's site, service, or application, or target
24 advertising on any other site, service, or application when the targeting of the advertising is based
25 upon any information, including covered information and persistent unique identifiers, that the
26 operator has acquired because of the use of that operator's site, service, or application described in
27 subsection (a)(1) of this section.

28 (2) Use information, including persistent unique identifiers, created or gathered by the
29 operator's site, service, or application, to amass a profile about a K-12 student except in
30 furtherance of K-12 school purposes.

31 (3) Sell a student's information, including covered information. This prohibition does not
32 apply to the purchase, merger, or other type of acquisition of an operator by another entity,
33 provided that the operator or successor entity continues to be subject to the provisions of this
34 section with respect to previously acquired student information.

1 (4) Disclose covered information unless the disclosure is made:

2 (i) In furtherance of the K-12 purpose of the site, service, or application, provided the

3 recipient of the covered information disclosed pursuant to this subsection:

4 (A) Shall not further disclose the information unless done to allow or improve operability

5 and functionality within that student's classroom or school; and

6 (B) Is legally required to comply with subsection (d) of this section:

7 (ii) To ensure legal and regulatory compliance;

8 (iii) To respond to or participate in the judicial process;

9 (iv) To protect the safety of users or others or security of the site; or

10 (v) To an Internet service provider, provided the operator contractually:

11 (A) Prohibits the service provider from using any covered information for any purpose

12 other than providing the contracted service to, or on behalf of, the operator;

13 (B) Prohibits the service provider from disclosing any covered information provided by

14 the operator with subsequent third parties; and

15 (C) Requires the service provider to implement and maintain reasonable security

16 procedures and practices as provided in subsection (d) of this section.

17 (c) Nothing in subsection (b) of this section shall be construed to prohibit the operator's

18 use of information for maintaining, developing, supporting, improving, or diagnosing the

19 operator's site, service, or application.

20 (d) An operator shall:

21 (1) Implement and maintain reasonable security procedures and practices appropriate to

22 the nature of the covered information, and protect that information from unauthorized access,

23 destruction, use, modification, or disclosure.

24 (2) Delete a student's covered information if the school or district requests deletion of

25 data under the control of the school or district.

26 (e) Notwithstanding subsection (b)(4) of this section, an operator may disclose covered

27 information of a student, as long as subsections (b)(1) through (b)(3) of this section are not

28 violated, under the following circumstances:

29 (1) If other provisions of federal or state law require the operator to disclose the

30 information, and the operator complies with the requirements of federal and state law in

31 protecting and disclosing that information.

32 (2) For legitimate research purposes as required by state or federal law and subject to the

33 restrictions under applicable state and federal law or as allowed by state or federal law and under

34 the direction of a school, school district, or the state department of education, if no covered

1 information is used for any purpose in furtherance of advertising or to amass a profile on the
2 student for purposes other than K-12 school purposes.

3 (3) To a state or local educational agency, including schools and school districts, for K-12
4 school purposes, as permitted by state or federal law.

5 (f) Nothing in this section prohibits an operator from using deidentified student covered
6 information as follows:

7 (1) Within the operator's site, service, or application or other sites, services, or
8 applications owned by the operator to improve educational products;

9 (2) To demonstrate the effectiveness of the operator's products or services, including in
10 their marketing;

11 (3) From sharing aggregated deidentified student covered information for the
12 development and improvement of educational sites, services, or applications.

13 (e) This section shall not be construed to:

14 (1) Limit the authority of a law enforcement agency to obtain any content or information
15 from an operator as authorized by law or pursuant to an order of a court of competent jurisdiction
16 nor limit the ability of an operator to use student data, including covered information, for adaptive
17 learning or customized student learning purposes;

18 (2) Prohibit an operator of an Internet website, online service, online application, or
19 mobile application from marketing educational products directly to parents, provided the
20 marketing did not result from the use of covered information obtained by the operator through the
21 provision of services covered under this section; or

22 (3) Limit Internet service providers from providing Internet connectivity to schools or
23 students and their families.

24 (f) This section does not impose

25 (1) A duty upon a provider of an electronic store, gateway, marketplace, or other means
26 of purchasing or downloading software or applications to review or enforce compliance of this
27 section on those applications or software; or

28 (2) Impose a duty upon a provider of an interactive computer service, as defined in 47
29 U.S.C. § 230, to review or enforce compliance with this section by third-party content providers.

30 (g) This section does not apply to general audience Internet websites, general audience
31 online services, general audience online applications, or general audience mobile applications,
32 even if login credentials created for an operator's site, service, or application may be used to
33 access those general audience sites, services, or applications; and does not impede the ability of
34 students to download, export, or otherwise save or maintain their own student created data or

1 documents.

2 (h) The provisions of this section are severable. If any provision of this section or its
3 application is held invalid, that invalidity shall not affect other provisions or applications that can
4 be given effect without the invalid provision or application.

5 SECTION 2. This act shall take effect on January 1, 2020.

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LC000698
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO PUBLIC UTILITIES AND CARRIERS - DUTIES OF PUBLIC UTILITIES
AND CARRIERS

1 This act would prohibit an operator of an Internet website, online service, online
2 application, or mobile application from knowingly engaging in targeted advertising to students or
3 their parents or legal guardians, using covered information to amass a profile about a K-12
4 student, selling a student's information, or disclosing covered information, as provided. This act
5 would also require an operator to implement and maintain reasonable security procedures and
6 practices appropriate to the nature of the covered information, to protect the information from
7 unauthorized access, destruction, use, modification, or disclosure, and to delete a student's
8 covered information if the school or district requests deletion of data under the control of the
9 school or district. This act would also authorize the disclosure of covered information of a student
10 under specified circumstances.

11 This act would take effect on January 1, 2020.

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LC000698
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A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS - DUTIES OF PUBLIC UTILITIES AND CARRIERS

LC000698

Presented by

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2019 --

Public Utilities and Carriers

STATE OF RHODE ISLAND

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JANUARY SESSION, A.D. 2019

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6 media or format that meets any of the following:

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8 operator in the course of the student's, parent's, or legal guardian's use of the operator's site, service,
9 or application for K-12 school purposes.

10 (ii) Is created or provided by an employee or agent of the K-12 school, school district, local

1 education agency, or state department of education, to an operator.

2 (iii) Is gathered by an operator through the operation of a site, service, or application
3 defined in this subsection and is descriptive of a student or otherwise identifies a student, including,
4 but not limited to, information in the student's educational record or email, first and last name,
5 home address, telephone number, email address, or other information that allows physical or online
6 contact, discipline records, test results, special education data, juvenile dependency records, grades,
7 evaluations, criminal records, medical records, health records, social security number, biometric
8 information, disabilities, socioeconomic information, food purchases, political affiliations,
9 religious information, text messages, documents, student identifiers, search activity, photos, voice
10 recordings, or geolocation information.

11 (2) "Internet service provider" means an entity offering the transmission, routing, or
12 providing of connections of digital online communications, between or among points specified by
13 a user, of material of the user's choosing, without modification to the content of the material as sent
14 or received and includes a provider of online services or network access, including entities that
15 provide an electronic communication service or remote computing service, but does not mean the
16 offering on a common carrier basis of telecommunication facilities or of telecommunications.

17 (3) "K-12 school purposes" means purposes that customarily take place at the direction of
18 the K-12 school, teacher, or school district or aid in the administration of school activities,
19 including, but not limited to, instruction in the classroom or at home, administrative activities, and
20 collaboration between students, school personnel, or parents, or are for the use and benefit of the
21 school.

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23 section if they otherwise meet the definition of an operator.

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25 or mobile application with actual knowledge that the site, service, or application is used primarily
26 for K-12 school purposes and was designed and marketed for K-12 school purposes.

1 **(b) An operator shall not knowingly engage in any of the following activities with respect**
2 **to their site, service, or application:**

3 **(1) Engage in targeted advertising on the operator's site, service, or application, or target**
4 **advertising on any other site, service, or application when the targeting of the advertising is based**
5 **upon any information, including covered information and persistent unique identifiers, that the**
6 **operator has acquired because of the use of that operator's site, service, or application described in**
7 **subsection (a)(1) of this section.**

8 **(2) Use information, including persistent unique identifiers, created or gathered by the**
9 **operator's site, service, or application, to amass a profile about a K-12 student except in furtherance**
10 **of K-12 school purposes.**

11 **(3) Sell a student's information, including covered information. This prohibition does not**
12 **apply to the purchase, merger, or other type of acquisition of an operator by another entity, provided**
13 **that the operator or successor entity continues to be subject to the provisions of this section with**
14 **respect to previously acquired student information.**

15 **(4) Disclose covered information unless the disclosure is made:**

16 **(i) In furtherance of the K-12 purpose of the site, service, or application, provided the**
17 **recipient of the covered information disclosed pursuant to this subsection:**

18 **(A) Shall not further disclose the information unless done to allow or improve operability**
19 **and functionality within that student's classroom or school; and**

20 **(B) Is legally required to comply with subsection (d) of this section;**

21 **(ii) To ensure legal and regulatory compliance;**

22 **(iii) To respond to or participate in the judicial process;**

23 **(iv) To protect the safety of users or others or security of the site; or**

24 **(v) To an Internet service provider, provided the operator contractually:**

25 **(A) Prohibits the service provider from using any covered information for any purpose**
26 **other than providing the contracted service to, or on behalf of, the operator;**

1 (B) Prohibits the service provider from disclosing any covered information provided by the
2 operator with subsequent third parties; and

3 (C) Requires the service provider to implement and maintain reasonable security
4 procedures and practices as provided in subsection (d) of this section.

5 (c) Nothing in subsection (b) of this section shall be construed to prohibit the operator's use
6 of information for maintaining, developing, supporting, improving, or diagnosing the operator's
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19 students and their families.

20 (f) This section does not impose

21 (1) A duty upon a provider of an electronic store, gateway, marketplace, or other means of
22 purchasing or downloading software or applications to review or enforce compliance of this section
23 on those applications or software; or

24 (2) Impose a duty upon a provider of an interactive computer service, as defined in 47
25 U.S.C. § 230, to review or enforce compliance with this section by third-party content providers.

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