

The Emergence of Data Privacy Conversations and State Responses

AUTHOR: RACHEL ANDERSON, DATA QUALITY CAMPAIGN

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EXECUTIVE SUMMARY

Securely connected longitudinal data can be a powerful tool to support student learning from early childhood through postsecondary programs and into the workforce and to drive systems-level improvements that make our education sector more effective and equitable. When using data in service of learning, safeguarding students' privacy is critical, and state legislators have taken steps to ensure this protection in recent years: since 2014, they have considered over 600 bills¹ to safeguard the privacy of students' data.

However, without a full understanding of how states, postsecondary institutions, districts, and schools use data to ensure education equity and excellence, these well-intentioned bills can cause serious harm to students. State legislation designed to safeguard student privacy can instead profoundly disrupt basic educational functions, exacerbate inequities by complicating the administration of programs and oversight that serve students most in need, hamper innovation and personalized learning efforts, and, perhaps most troublingly, not actually implement the robust privacy measures that all students deserve.

In 2014, lawmakers in Louisiana discovered how disruptive the unintended consequences stemming from education data privacy legislation can be to students. That year, the state passed two education data privacy laws (Act 837 and Act 677), one of which sought to protect student privacy by requiring school districts to obtain parental consent to share personally identifiable information with almost any entity, even the Louisiana

Department of Education (Act 837). Despite significant efforts at the state and local levels, these new laws caused disruptions across the state, prompting lawmakers in the very next legislative session to make significant revisions to the laws to address its unintended outcomes.

Louisiana's experience illuminates important considerations that can inform future state and federal efforts to securely connect longitudinal, student-level education data across systems and sectors. Policymakers looking to legislate education data systems and privacy should consider issues including:

- Framing data privacy holistically as a component of data use.
- Understanding the legislative landscape and engaging diverse stakeholders to understand needs and the likely impact of legislation.
- Providing clarity and support for implementation.

Policymakers have a responsibility to use data to support student learning and improve the quality of education from early childhood through postsecondary. However, they do not need to compromise privacy to do so. With thoughtful stakeholder engagement and careful legislating, policymakers can develop, support, and protect data systems that help yield positive outcomes for students.

¹ Data Quality Campaign. (2018). Education data legislation review: 2018 state activity. Retrieved from <https://dataqualitycampaign.org/resource/2018-education-data-legislation/>