

1 **SCHOOL SERVICE PROVIDERS' USE OF STUDENT PERSONAL INFORMATION**

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3 **Definitions**

4 For the purposes of this policy:

5 "Elementary and secondary school purposes" means purposes that (i) customarily take place at the
6 direction of an elementary or secondary school, elementary or secondary school teacher, or school
7 division; (ii) aid in the administration of school activities, including instruction in the classroom
8 or at home; administrative activities; and collaboration between students, school personnel or
9 parents; or (iii) are otherwise for the use and benefit of an elementary or secondary school.

10 "Machine-readable format" means a structured format that can automatically be read and processed
11 by a computer such as comma-separated values (CSV), JavaScript Object Notation (JSON) or
12 Extensible Markup Language (XML). "Machine-readable format" does not include portable
13 document format (PDF).

14 "Personal profile" does not include account information that is collected and retained by a school
15 service provider and remains under control of a student, parent or elementary or secondary school.

16 "School-affiliated entity" means any private entity that provides support to the school division or
17 a public elementary or secondary school. "School-affiliated entity" includes alumni associations,
18 booster clubs, parent-teacher associations, parent-teacher-student associations, parent-teacher
19 organizations, public education foundations, public education funds and scholarship organizations.

20 "School service" means a website, mobile application or online service that (i) is designed and
21 marketed primarily for use in elementary or secondary schools; (ii) is used (a) at the direction of
22 teachers or other employees at elementary or secondary schools or (b) by any school-affiliated
23 entity; and (iii) collects and maintains, uses or shares student personal information. "School
24 service" does not include a website, mobile application or online service that is (a) used for the
25 purposes of college and career readiness assessment or (b) designed and marketed for use by
26 individuals or entities generally, even if it is also marketed for use in elementary or secondary
27 schools.

28 "School service provider" means an entity that operates a school service pursuant to a contract
29 with the school division.

30 "Student personal information" means information collected through a school service that
31 identifies a currently or formerly enrolled individual student or is linked to information that
32 identifies a currently or formerly enrolled individual student.

33 "Targeted advertising" means advertising that is presented to a student and selected on the basis
34 of information obtained or inferred over time from such student's online behavior, use of
35 applications, or sharing of student personal information. "Targeted advertising" does not include
36 advertising (i) that is presented to a student at an online location (a) on the basis of such student's
37 online behavior, use of applications or sharing of student personal information during his current
38 visit to that online location or (b) in response to that student's request for information or feedback

39 and (ii) for which a student's online activities or requests are not retained over time for the purpose
40 of subsequent advertising.

41 **Required Contract Terms**

42 The contract between a school service provider and the School Board shall require the school
43 service provider:

- 44 ● To provide clear and easy-to-understand information about the types of student personal
45 information it collects through any school service and how it maintains, uses or shares such
46 student personal information;
- 47 ● To maintain a policy for the privacy of student personal information for each school service
48 and provide prominent notice before making material changes to its policy for the privacy
49 of student personal information for the relevant school service;
- 50 ● To maintain a comprehensive information security program that is reasonably designed to
51 protect the security, privacy, confidentiality and integrity of student personal information
52 and makes use of appropriate administrative, technological and physical safeguards;
- 53 ● To facilitate access to and correction of student personal information by each student whose
54 student personal information has been collected, maintained, used or shared by the school
55 service provider, or by such student's parent, either directly or through the student's school
56 or teacher;
- 57 ● To collect, maintain, use and share student personal information only with the consent of
58 the student or, if the student is less than 18 years of age, their parent/guardian or for the
59 purposes authorized in the contract between the School Board and the school service
60 provider;
- 61 ● When it collects student personal information directly from the student, to obtain the
62 consent of the student or, if the student is less than 18 years of age, their parent/guardian
63 before using student personal information in a manner that is inconsistent with its policy
64 for the privacy of student personal information for the relevant school service, and when it
65 collects student personal information from an individual or entity other than the student, to
66 obtain the consent of the school division before using student personal information in a
67 manner that is inconsistent with its policy for the privacy of student personal information
68 for the relevant school service;
- 69 ● To require any successor entity or third party with whom it contracts to abide by its policy
70 for the privacy of student personal information and comprehensive information security
71 program before accessing student personal information;
- 72 ● To require that, upon the request of the school or School Board, the school service provider
73 will delete student personal information within a reasonable period of time after such
74 request unless the student or, if the student is less than 18 years of age, their parent/guardian
75 consents to the maintenance of the student personal information by the school service
76 provider; and

- 77 ● To provide, either directly to the student or their parent/guardian or through the school,
78 access to an electronic copy of such student's personal information in a manner consistent
79 with the functionality of the school service. Contracts between local school boards and
80 school service providers may require that such electronic copy be in a machine-readable
81 format.

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83 The contract will also prohibit the school service provider from knowingly:

- 84 ● Using or sharing any student personal information for the purpose of targeted advertising
85 to students;
- 86 ● Using or sharing any student personal information to create a personal profile of a student
87 other than for elementary and secondary school purposes authorized by the school division,
88 with the consent of the student or, if the student is less than 18 years of age, their
89 parent/guardian, or as otherwise authorized in the contract between the school division and
90 the school service provider; or
- 91 ● Selling student personal information except to the extent that such student personal
92 information is sold to or acquired by a successor entity that purchases, merges with or
93 otherwise acquires the school service provider.

94 Nothing in this policy shall be construed to prohibit school service providers from:

- 95 ● Using student personal information for purposes of adaptive learning, personalized
96 learning or customized education;
- 97 ● Using student personal information for maintaining, developing, supporting, improving or
98 diagnosing the school service;
- 99 ● Providing recommendations for employment, school, educational or other learning
100 purposes within a school service when such recommendation is not determined in whole
101 or in part by payment or other consideration from a third party;
- 102 ● Disclosing student personal information to (i) ensure legal or regulatory compliance, (ii)
103 protect against liability or (iii) protect the security or integrity of its school service; or
- 104 ● Disclosing student personal information pursuant to a contract with a service provider,
105 provided that the school service provider (i) contractually prohibits the service provider
106 from using any student personal information for any purpose other than providing the
107 contracted service to or on behalf of the school service provider, (ii) contractually prohibits
108 the service provider from disclosing any student personal information provided by the
109 school service provider to any third party unless such disclosure is permitted by Va. Code
110 § 22.1-289.01(B)(7) and (iii) requires the service provider to comply with the requirements
111 set forth Va. Code § 22.1-289.01(B) and the prohibitions set forth in Va. Code § 22.1-
112 289.01(C).

113 Nothing in this policy shall be construed to:

- 114 ● Impose a duty upon a provider of an electronic store, gateway, marketplace, forum or
115 means for purchasing or downloading software or applications to review or enforce
116 compliance with this policy with regard to any school service provider whose school
117 service is available for purchase or download on such electronic store, gateway,
118 marketplace, forum or means;
- 119 ● Impose liability on an interactive computer service, as that term is defined in 47 U.S.C. §
120 230(f), for content provided by another individual; or
- 121 ● Prohibit any student from downloading, exporting, transferring, saving or maintaining his
122 personal information, data or documents.

123 Adopted: June 22, 2017

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126 Legal Refs.: Code of Virginia, 1950, as amended, § 22.1-289.01.

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128 Cross Refs.: JO Student Records

129 KMA Relations with Parent Organizations

130

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15 service provider and remains under control of a student, parent or elementary or secondary school.

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25 for the purposes of college and career readiness assessment or (b) designed and marketed for use
26 by individuals or entities generally, even if it is also marketed for use in elementary or secondary
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Commented [2]: Acknowledgement that some applications may be used by other sectors.

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