

The Forum for America's Ideas

**STATE LEGISLATIVE ACTIVITY ON
STUDENT DATA PRIVACY**

PRESENTATION TO THE
WISCONSIN STUDY COMMITTEE ON
SCHOOL DATA
JULY 12, 2016



NATIONAL CONFERENCE *of* STATE LEGISLATURES

About NCSL

- ❑ Instrumentality of all 50 state and territorial legislatures
- ❑ Bipartisan
- ❑ Provides research, technical assistance and opportunities to exchange ideas
- ❑ Advocates on behalf of legislatures before the federal government

NCSL is committed to the success of state legislators and staff. Founded in 1975, we are a respected bipartisan organization providing states support, ideas, connections and a strong voice on Capitol Hill.



Presentation overview

- What is student data?
- What are other states doing?
- Examples of state policy approaches
- Policy questions to consider



What is student data?

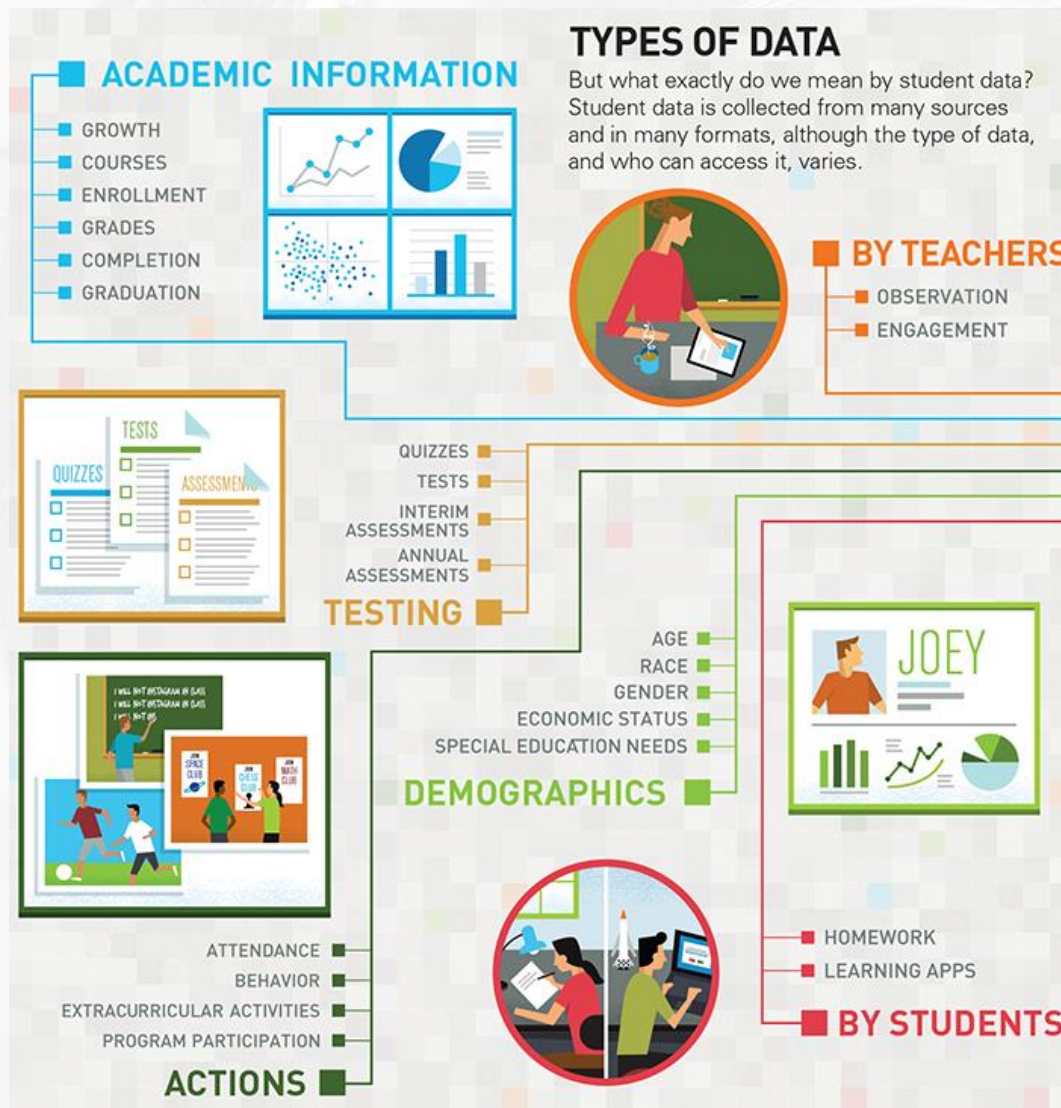


Image courtesy of the Data Quality Campaign



Why student data privacy legislation?



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2013 to 2016: Total of 68 laws in 35 states

2013:

- ▣ 1 state passed 1 new student data privacy law

2014:

- ▣ 21 states passed 26 new student data privacy laws

2015:

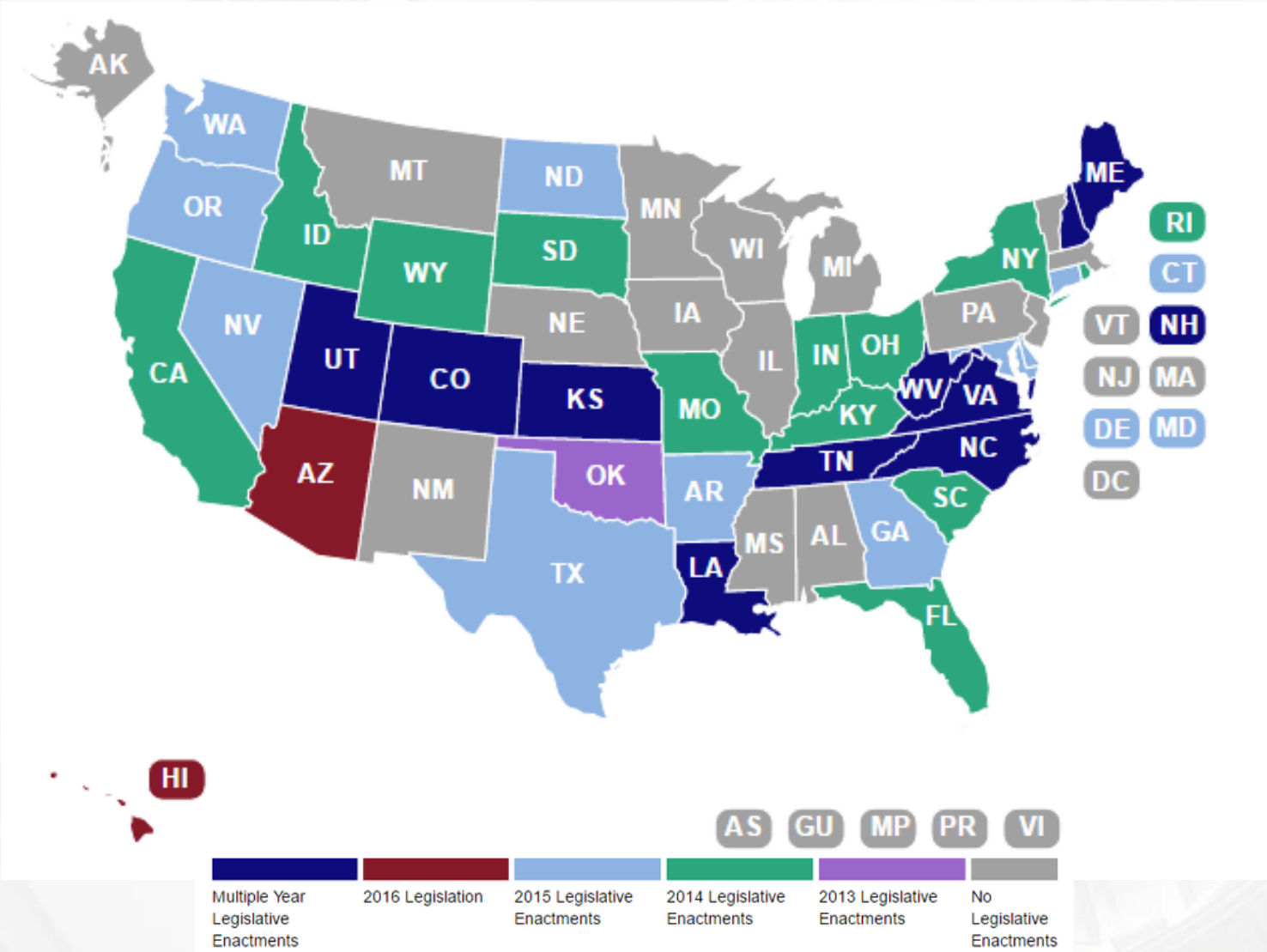
- ▣ 15 states passed 28 new student data privacy laws

2016:

- ▣ 11 states passed 13 new student data privacy laws



Student data privacy legislation 2013-2016



The first state: Oklahoma – [HB 1989](#) (2013)

- The Student Data Accessibility, Transparency and Accountability Act:
 - Required public reporting of which student data are collected by the state
 - Mandated creation of a statewide student data security plan
 - Limited the data that can be collected on individual students and how that data can be shared
 - Established new limits on the transfer of student data to federal, state, or local agencies and organizations outside Oklahoma



Legislative Intent – Idaho [SB 1372](#) (2014)

- Idaho's bill expressed a commitment to education data privacy while acknowledging the educational value of effective data use.



West Virginia's data governance officer –

HB 4316 (2014)

- Created a new position – Data Governance Officer
- First of many states to appoint state leaders, advisory boards or other government structures to be responsible for ensuring privacy and security of student data



California's Student Online Personal Information Protection Act - [SB 1177](#) (2014)

- Changed the conversation – defined how education technology companies can use student data
- Prohibits an operator of a website, online service, online application or mobile application from amassing a student data profile and using it for targeted advertising
- First of many states to pass similar laws



Assistance to districts: Virginia's [HB 2350](#) (2015)

- Requires the state department of education to develop and annually update a model data security plan for the protection of student data held by school divisions.
- Includes technical assistance to districts, upon request, with the development and implementation of their own data security plans.



Putting it all together - Georgia's [SB 89](#) (2015)

- Included strong intent language
- Required data inventory
- Created Chief Privacy Officer
- Provided assistance to districts
- Addressed expectation for online service providers who have access to student level data



What else?



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Student ownership of data

- Utah [SB 82](#) (2013) created the “student achievement backpack” to store the learning profile of a student from kindergarten through grade 12 , while giving parents and students some control over who can access the information



Social media names and passwords

- Prohibiting schools from requesting social media names and passwords
 - ▣ Oregon [HB 2426](#) (2013), Rhode Island [HB 7124](#) (2014)
 - ▣ These laws also prohibit schools from requesting access to student email accounts



Targeted advertising

- Bans on targeted advertising by online service providers can inadvertently prohibit valid recommendations for further learning
 - ▣ Arkansas [HB 1961](#) (2015) included language to exempt in-program recommendations from advertising bans
 - ▣ Maryland [HB 298](#) (2015) and Nevada [SB 463](#) (2015) excluded some recommendation activities from the definition of targeted advertising



Biometric data

- Biometric information includes fingerprint scans, palm scans, retina or iris scans, facial geometry scans, and voiceprints.
- Florida [SB 188](#) (2014):
 - Prohibited any K-12 institution from collecting or retaining biometric information of a student, parent, or sibling of a student.
 - Allowed a grace period of one academic year for schools using palm scanners for meal programs, but all other collection of biometric data required to stop immediately.
- Restrictions could impede existing programs



Emerging Issue: Student surveys

- Arizona [HB 2088](#) (2016) addresses student surveys and nonacademic data
 - ▣ Requires written informed consent from a parent of a pupil prior to the administration of surveys
 - ▣ Prohibits student level nontest data from inclusion in longitudinal, student level data unless approved in a public Arizona State Board of Education (SBE) meeting and linked on SBE's website



Policy Questions to Consider

1. What is the purpose of the state's privacy policy?
 - Idaho SB 1372 (2014)
2. What data is collected and by whom?
 - Oklahoma HB 1989 (2013)
3. Who is responsible for developing and overseeing privacy and security policies?
 - West Virginia HB 4316 (2014)



Policy Questions to Consider

4. Do districts have the information, capacity and resources to protect student data?
 - Virginia HB 2350 (2015)
5. What are privacy requirements for private companies providing digital services to students?
 - California SB 1177 (2014)



Final thoughts – key policy considerations

- Data is essential to improving student achievement
- States have an obligation ensure that student data is protected
- Structure student data privacy legislation so that students, parents, schools and policymakers can use it to support students and educators and to improve learning





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[http://www.ncsl.org/research/education
/student-data-privacy.aspx](http://www.ncsl.org/research/education/student-data-privacy.aspx)



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