

CHAPTER 113
FORMERLY
HOUSE BILL NO. 213

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO EDUCATIONAL DATA GOVERNANCE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 107(a), Title 14 of the Delaware Code, by striking the words “or work” as they appear in the second sentence and replacing with the words “and careers”; further amend this sentence by adding the words “through postsecondary study” after the words “their education” as they appear in the sentence.

Section 2. Amend § 107(b), Title 14 of the Delaware Code by striking the word “and” before the phrase “the Executive Director of the Delaware State Chamber of Commerce,” and adding the following language to the last sentence of that subsection, before the phrase “or their designees.”:

“the Secretary of the Department of Labor, the Secretary of the Department of Services for Children, Youth and their Families, the Secretary of the Department of Health and Social Services, the Chief of the Delaware Chief School Officers Association, the President of the Delaware State Education Association, and the President of the Charter School Network,”

Section 3. Amend §121(a)(10), Title 14 of the Delaware Code by adding the following language after the phrase “educational conditions” and before the semi-colon:

“including, without limitation, conducting an audit or evaluation of education programs; developing, validating, or administering predictive tests; administering student aid programs; improving instruction; conducting research and evaluation regarding federal, state or local education and training programs; or providing for the enforcement of or compliance with federal legal requirements relating to those programs”.

Section 4. Amend §121(a)(10), Title 14 of the Delaware Code by adding the following language after the phrase “for such investigations,” and before the word “employing”:

“collaborating with other organizations, including, without limitation, the P-20 Council, to conduct studies for or on behalf of the Department,”.

Section 5. Amend §121(a), Title 14 of the Delaware Code by striking the word "and" as it appears in subsection (15)c., striking the period at the end of subparagraph (16) and substituting in lieu thereof the following “; and”, and adding a new subparagraph (17) thereto as follows:

“(17) Collecting, integrating and reporting longitudinal student and educator data for such purposes as implementing federal- or state-required education performance accountability measures; conducting research and evaluation regarding federal, state and local education and training programs; and conducting audits and ensuring compliance of those programs with applicable federal and state requirements.”.

Section 6. Amend §122(b), Title 14 of the Delaware Code by striking the word "and" at the end of subparagraph (20), striking the period at the end of each of subparagraphs (21) and (22) and substituting for each a semicolon; striking the period at the end of subparagraph (23) and substituting "; and", and adding a new subparagraph (24) thereto as follows:

“(24) Providing for the governance of any longitudinal data system or database, and governing the collection, use, maintenance, disclosure and sharing of educational records and the information contained therein. Rules and regulations promulgated pursuant to this subparagraph shall be developed in consultation and cooperation with the P-20 Council and Interagency Resource Management Committee (IRMC) and with the consent of the State Board of Education and shall comply with state and federal privacy and confidentiality laws, including, without limitation, the Family Educational Rights and Privacy Act, the Protection of Pupil Rights Amendment and the Individuals with Disabilities Education Act each as amended from time to time.”.

Section 7: Amend § 4111, Title 14 of the Delaware Code by adding a new subsection (b) as follows, and re-lettering the existing subsections (b) and (c) as subsections (c) and (d), respectively:

“(b) The provisions of subsection (a) notwithstanding, educational institutions and programs operating in this State, including postsecondary institutions and programs regulated by a state agency, shall disclose to the Department such education records, and personally identifiable information contained therein, necessary for the audit or evaluation of State and federal education programs in accordance with the terms and conditions of a written agreement negotiated between the Department and each educational institution or program from which education records are sought. Such agreements shall: (i) state the term of the agreement; (ii) comply with the requirements of the Family Educational Rights and Privacy Act Regulations set forth in 34 CFR Part 99 regarding the Department's use, compilation, maintenance, protection, distribution, re-disclosure and return/destruction of education records obtained hereunder; (iii) specify the data elements to be disclosed by the educational institution or program; (iv) state the purpose for which the information will be used; (v) prohibit any disclosure of education records or personally identifiable information contained therein by an educational institution or program in violation of applicable State or federal privacy laws; (vi) prohibit any modification or amendment except by written agreement duly executed by the parties; and (vi) contain such additional provisions as agreed upon. All disclosures required by this section shall be for the purpose of ensuring the effectiveness of publicly-funded programs by connecting pre-kindergarten through grade 12 and post-secondary data, and sharing information to improve early childhood and workforce programs as set forth in Delaware's State Fiscal Stabilization Plan and Delaware's Race to the Top Plan, or as otherwise approved by the P-20 Council.”

Section 8. Amend § 4111, Title 14 of the Delaware Code by adding to the newly re-lettered subsection (c) the phrase “and eligible students” after the word “parents” and by adding the phrase “or themselves” after the word “children”.

Section 9. Amend § 4111, Title 14 of the Delaware Code by deleting “and (b)” in the last sentence of the newly re-lettered subsection (d) and replacing it with “through (c)”

Approved July 13, 2011