

REFERENCE TITLE: student, teacher data collection; prohibitions

State of Arizona  
Senate  
Fifty-second Legislature  
First Regular Session  
2015

## **SB 1464**

Introduced by  
Senator Burges; Representative Borrelli; Senators Allen, Barto, Farnsworth  
D, Griffin, Kavanagh, Lesko, Shooter, Smith, Ward, Yee; Representatives  
Allen J, Campbell, Fann, Finchem, Gray, Kern, Leach, Livingston, Thorpe

AN ACT

AMENDING TITLE 15, CHAPTER 9, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING  
SECTION 15-1046; RELATING TO STUDENT AND TEACHER DATA.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 15, chapter 9, article 8, Arizona Revised Statutes,  
3 is amended by adding section 15-1046, to read:

4 15-1046. Student and teacher data transparency and  
5 accountability; civil penalty; definition

6 A. NOTWITHSTANDING ANY OTHER LAW, THE STATE OF ARIZONA AFFIRMS THE  
7 PARENT AS THE FINAL AUTHORITY IN ALL MATTERS OF THE PARENT'S STUDENT'S  
8 EDUCATION AND PROHIBITS THE ACCESS, RELEASE OR SHARING OF PERSONALLY  
9 IDENTIFIABLE INFORMATION, STUDENT LEVEL DATA OR ANY INFORMATION ABOUT  
10 STUDENTS WITHOUT A WRITTEN EXPLANATION OF WHY THE INFORMATION IS BEING  
11 REQUESTED AND FOR WHAT PURPOSES IT WILL BE USED. BEFORE ANY DATA COLLECTION,  
12 WRITTEN AFFIRMATIVE CONSENT OF THE PARENT OR GUARDIAN IS REQUIRED.

13 B. NOTWITHSTANDING ANY OTHER LAW, A STATE OR NATIONAL STUDENT  
14 ASSESSMENT MAY NOT BE ADOPTED OR ADMINISTERED IN THIS STATE THAT COLLECTS ANY  
15 TYPE OF PSYCHOLOGICAL DATA, INCLUDING ASSESSMENT OF NONCOGNITIVE SKILLS OR  
16 ATTRIBUTES, PSYCHOLOGICAL ATTRIBUTES, FEELINGS, EMOTIONS, VALUES,  
17 APPRECIATIONS, ENTHUSIASMS, MOTIVATIONS, MINDSETS, LEARNING STRATEGIES,  
18 ATTITUDES, BELIEFS, DISPOSITIONS, CONCEPTIONS OF SELF, SOCIAL SKILLS,  
19 INTERPERSONAL SKILLS, INTRAPERSONAL RESOURCES OR OTHER ASPECTS OF THE  
20 AFFECTIVE DOMAIN.

21 C. NOTWITHSTANDING ANY OTHER LAW, THE STATE BOARD OF EDUCATION, THE  
22 DEPARTMENT OF EDUCATION AND ANY OTHER STATE ENTITY MAY NOT SPEND ANY MONIES,  
23 WHETHER FROM STATE, FEDERAL OR PRIVATE SOURCES, ON FURTHER CONSTRUCTION,  
24 ENHANCEMENT OR EXPANSION OF ANY STATEWIDE LONGITUDINAL DATA SYSTEM DESIGNED  
25 TO TRACK STUDENTS BEYOND GRADE TWELVE OR COMPILE PERSONAL, NONACADEMIC  
26 INFORMATION BEYOND WHAT IS NECESSARY EITHER FOR ADMINISTRATIVE FUNCTIONS  
27 DIRECTLY RELATED TO STUDENTS' SCHOOLING OR FOR EVALUATION OF ACADEMIC  
28 PROGRAMS AND STUDENT PROGRESS.

29 D. NOTWITHSTANDING ANY OTHER LAW, THE DEPARTMENT OF EDUCATION AND ANY  
30 POLITICAL SUBDIVISION OF THIS STATE MAY NOT SHARE ANY PERSONALLY IDENTIFIABLE  
31 INFORMATION OF STUDENTS AND TEACHERS WITH THE UNITED STATES DEPARTMENT OF  
32 EDUCATION UNLESS ALL OF THE FOLLOWING OCCUR:

33 1. THE UNITED STATES DEPARTMENT OF EDUCATION AGREES IN WRITING THAT  
34 THE DATA WILL BE USED ONLY TO EVALUATE THE SPECIFIC PROGRAM OR PROGRAMS  
35 FUNDED BY A SPECIFIC GRANT AND WILL NOT BE TRANSFERRED TO OR SHARED WITH ANY  
36 OTHER FEDERAL AGENCY.

37 2. THE UNITED STATES DEPARTMENT OF EDUCATION AGREES IN WRITING THAT  
38 THE DATA WILL NOT BE USED FOR ANY RESEARCH BEYOND THAT RELATED TO EVALUATION  
39 OF THE SPECIFIC PROGRAM OR PROGRAMS FUNDED BY THE GRANT, UNLESS THE PARENT OF  
40 ANY STUDENT AND ANY TEACHER WHOSE DATA WILL BE USED FOR SUCH RESEARCH ARE  
41 INFORMED IN WRITING OF THE PURPOSE OF THE RESEARCH AND THE USE OF THE DATA TO  
42 BE COLLECTED AND AFFIRMATIVELY CONSENT IN WRITING TO THAT USE.

43 3. THE UNITED STATES DEPARTMENT OF EDUCATION AGREES IN WRITING TO  
44 DESTROY THE DATA ON COMPLETION OF THE EVALUATION OF THE PROGRAM OR PROGRAMS  
45 FOR WHICH THE DATA WAS COMPILED.

1           4. THE GRANT OR PROGRAM REQUIRING THE DATA IS ONE AUTHORIZED BY  
2 FEDERAL LAW.

3           E. NOTWITHSTANDING ANY OTHER LAW, THE DEPARTMENT OF EDUCATION SHALL  
4 REQUIRE EVERY RECIPIENT OF A FEDERAL GRANT TO DO THE FOLLOWING:

5           1. PROVIDE WRITTEN NOTIFICATION TO THE PARENTS OR GUARDIANS OF EVERY  
6 STUDENT WHOSE DATA WILL BE SHARED AND TO EVERY TEACHER WHOSE DATA WILL BE  
7 SHARED OF THE FOLLOWING:

8           (a) THAT THE RECIPIENT OF THE FEDERAL GRANT IS REQUIRED TO TURN OVER  
9 THE STUDENT'S OR TEACHER'S DATA TO THE UNITED STATES DEPARTMENT OF EDUCATION.

10           (b) THAT NEITHER THE RECIPIENT OF THE FEDERAL GRANT NOR ANY OTHER  
11 ENTITY WITHIN THIS STATE WILL HAVE CONTROL OVER THE USE OR FURTHER SHARING OF  
12 THAT DATA.

13           (c) THE CONTACT INFORMATION, INCLUDING THE TELEPHONE NUMBER AND E-MAIL  
14 ADDRESS, OF THE UNITED STATES DEPARTMENT OF EDUCATION OFFICIAL WHO DEMANDS  
15 THE DATA.

16           (d) THE WAY IN WHICH THE DATA WILL BE USED.

17           2. OBTAIN WRITTEN CONSENT FROM THE TEACHER OR THE STUDENT'S PARENT.

18           F. NOTWITHSTANDING ANY OTHER LAW, TO ENSURE TRANSPARENCY OF DATA  
19 COLLECTED OR USED WITHIN THIS STATE, THE DEPARTMENT OF EDUCATION SHALL:

20           1. DEVELOP AND MAKE PUBLICLY AVAILABLE TO THE PEOPLE OF THIS STATE A  
21 DATA INVENTORY AND INDEX OF DATA ELEMENTS WITH DEFINITIONS OF EACH DATA FIELD  
22 IN THE SYSTEM THAT INCLUDES ALL OF THE FOLLOWING:

23           (a) ANY PERSONALLY IDENTIFIABLE STUDENT LEVEL DATA REQUIRED TO BE  
24 REPORTED BY STATE AND FEDERAL LAW.

25           (b) ANY OTHER PERSONALLY IDENTIFIABLE STUDENT LEVEL DATA THAT HAS BEEN  
26 PROPOSED FOR INCLUSION IN THE STUDENT DATA SYSTEM AND A STATEMENT OF PURPOSE  
27 OR REASON FOR THE PROPOSED COLLECTION.

28           (c) ANY INDIVIDUAL STUDENT LEVEL DATA THAT THE DEPARTMENT COLLECTS OR  
29 MAINTAINS WITH NO STATED CURRENT PURPOSE OR REASON.

30           2. DEVELOP, PUBLISH AND MAKE AVAILABLE TO THE PEOPLE OF THIS STATE  
31 POLICIES AND PROCEDURES THAT COMPLY WITH THE FAMILY EDUCATIONAL RIGHTS AND  
32 PRIVACY ACT OF 1974 AND OTHER RELEVANT PRIVACY LAWS AND POLICIES, INCLUDING  
33 POLICIES AND PROCEDURES THAT SPECIFY THAT ACCESS TO PERSONALLY IDENTIFIABLE  
34 STUDENT LEVEL DATA IN ANY CURRENT STATEWIDE DATA SYSTEM SHALL BE RESTRICTED  
35 TO:

36           (a) THE AUTHORIZED STAFF OF THE DEPARTMENT OF EDUCATION AND ANY OF THE  
37 DEPARTMENT'S CONTRACTORS THAT REQUIRE SUCH ACCESS.

38           (b) DISTRICT ADMINISTRATORS, TEACHERS AND SCHOOL PERSONNEL WHO REQUIRE  
39 SUCH ACCESS TO PERFORM ASSIGNED DUTIES.

40           (c) STUDENTS AND THEIR PARENTS FOR THEIR OWN DATA.

41           (d) THE AUTHORIZED STAFF OF OTHER STATE AGENCIES IN THIS STATE AS  
42 REQUIRED BY LAW AND DEFINED BY INTERAGENCY DATA SHARING AGREEMENTS.

43           G. NOTWITHSTANDING ANY OTHER LAW, PERSONALLY IDENTIFIABLE STUDENT  
44 LEVEL DATA MAINTAINED BY THE DEPARTMENT OF EDUCATION SHALL REMAIN

1 CONFIDENTIAL. THE DEPARTMENT SHALL USE ONLY AGGREGATE DATA IN PUBLIC REPORTS  
2 OR IN RESPONSE TO PUBLIC RECORD REQUESTS.

3 H. NOTWITHSTANDING ANY OTHER LAW, THE DEPARTMENT OF EDUCATION SHALL  
4 DEVELOP CRITERIA FOR THE APPROVAL OF RESEARCH AND DATA REQUESTS FROM STATE  
5 AND LOCAL AGENCIES, THE LEGISLATURE, RESEARCHERS AND THE PUBLIC THAT PROVIDE  
6 STUDENT LEVEL RECORDS WITH ALL PERSONALLY IDENTIFIABLE STUDENT LEVEL DATA  
7 REMOVED. IN ALL CASES, INDIVIDUAL STUDENT IDENTITIES SHALL REMAIN  
8 CONFIDENTIAL.

9 I. THE DEPARTMENT OF EDUCATION SHALL DEVELOP AND MAKE PUBLICLY  
10 AVAILABLE TO THE PEOPLE OF THIS STATE A DETAILED DATA SECURITY PLAN THAT  
11 INCLUDES ALL OF THE FOLLOWING:

12 1. GUIDELINES FOR AUTHORIZING ACCESS TO THE DATA SYSTEM AND TO  
13 INDIVIDUAL STUDENT LEVEL DATA INCLUDING GUIDELINES FOR AUTHENTICATION OF  
14 AUTHORIZED ACCESS.

15 2. PRIVACY COMPLIANCE STANDARDS.

16 3. PRIVACY AND SECURITY AUDITS.

17 4. BREACH PLANNING, NOTIFICATION AND PROCEDURES.

18 5. DATA RETENTION AND DISPOSITION POLICIES.

19 6. DATA SECURITY POLICIES, INCLUDING ELECTRONIC, PHYSICAL AND  
20 ADMINISTRATIVE SAFEGUARDS, SUCH AS DATA ENCRYPTION AND TRAINING OF EMPLOYEES.

21 J. NOTWITHSTANDING ANY OTHER LAW, THE DEPARTMENT OF EDUCATION AND  
22 SCHOOLS MAY NOT COLLECT ANY PERSONALLY IDENTIFIABLE INFORMATION ON ANY  
23 STUDENT OR TEACHER WITHOUT RECEIVING PRIOR AFFIRMATIVE WRITTEN CONSENT, AND  
24 ONLY AFTER PROVIDING THE PARENT, GUARDIAN OR TEACHER WITH A WRITTEN  
25 EXPLANATION OF WHY THE INFORMATION IS BEING REQUESTED AND FOR WHAT PURPOSE.  
26 PROCEDURES SHALL BE ESTABLISHED TO NOTIFY TEACHERS, STUDENTS AND PARENTS  
27 REGARDING THE RIGHTS OF TEACHERS, STUDENTS AND PARENTS UNDER FEDERAL AND  
28 STATE LAW.

29 K. NOTWITHSTANDING ANY OTHER LAW, THE DEPARTMENT OF EDUCATION MAY NOT  
30 SHARE OR TRANSFER ANY PERSONALLY IDENTIFIABLE INFORMATION ABOUT ANY STUDENT  
31 OR TEACHER WITH ANY ENTITY IN THIS STATE UNLESS THAT ENTITY IS AN EDUCATION  
32 AGENCY OR INSTITUTION THAT WILL NOT:

33 1. USE THE DATA TO DEVELOP COMMERCIAL PRODUCTS OR SERVICES.

34 2. SHARE OR TRANSFER ANY PERSONALLY IDENTIFIABLE INFORMATION ABOUT ANY  
35 STUDENT OR TEACHER TO ANY ECONOMIC OR WORKFORCE DEVELOPMENT RESEARCH OR  
36 INITIATIVES.

37 3. SHARE ANY PERSONALLY IDENTIFIABLE INFORMATION COMPILED ON STUDENTS  
38 OR TEACHERS WITH ANY ENTITY OUTSIDE THIS STATE, EXCEPT AS PROVIDED IN THIS  
39 SECTION.

40 L. NOTWITHSTANDING ANY OTHER LAW, THE DEPARTMENT OF EDUCATION SHALL  
41 ENSURE THAT ALL CONTRACTS THAT GOVERN DATABASES, ASSESSMENTS OR INSTRUCTIONAL  
42 SUPPORTS THAT INCLUDE STUDENT OR REDACTED DATA AND THAT ARE OUTSOURCED TO  
43 PRIVATE VENDORS INCLUDE WRITTEN PROVISIONS THAT SPECIFICALLY SAFEGUARD  
44 STUDENT PRIVACY AND DATA SECURITY, INCLUDING PROVISIONS THAT PROHIBIT PRIVATE  
45 VENDORS FROM SELLING STUDENT LEVEL DATA OR FROM USING STUDENT LEVEL DATA IN

1 FURTHERANCE OF ADVERTISING, WITH PENALTIES FOR NONCOMPLIANCE. THE DEPARTMENT  
2 MAY NOT SHARE ANY PERSONALLY IDENTIFIABLE INFORMATION ABOUT ANY STUDENT OR  
3 TEACHER WITH ANY ENTITY THAT WILL USE THAT INFORMATION FOR DEVELOPMENT OF  
4 COMMERCIAL PRODUCTS OR SERVICES OR THAT WILL TRANSFER THAT DATA TO ANY OTHER  
5 ENTITY FOR USE IN THE DEVELOPMENT OF COMMERCIAL PRODUCTS OR SERVICES. A  
6 CONTRACTOR WORKING WITH STUDENT RECORDS SHALL AGREE IN WRITING THAT IT WILL  
7 NOT DISCLOSE SUCH INFORMATION, INCLUDING FOR ONLINE BEHAVIORAL ADVERTISING,  
8 FOR THE SALE OF DATA FOR ANY COMMERCIAL PURPOSE OR FOR ANY OTHER COMMERCIAL  
9 OR NONCOMMERCIAL ACTIVITY OR PRODUCT.

10 M. NOTWITHSTANDING ANY OTHER LAW, THE DEPARTMENT OF EDUCATION SHALL  
11 PUBLICLY NOTIFY THE GOVERNOR, THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE  
12 HOUSE OF REPRESENTATIVES, THE SUPERINTENDENT OF PUBLIC INSTRUCTION, THE STATE  
13 BOARD OF EDUCATION, PARENTS AND THE GENERAL PUBLIC OF THE FOLLOWING:

14 1. NEW STUDENT LEVEL DATA ELEMENTS PROPOSED FOR INCLUSION IN THE STATE  
15 STUDENT DATA SYSTEM.

16 2. CHANGES TO EXISTING DATA COLLECTION REQUIRED FOR ANY REASON,  
17 INCLUDING CHANGES TO THE FEDERAL REPORTING REQUIREMENTS MADE BY THE UNITED  
18 STATES DEPARTMENT OF EDUCATION.

19 N. NOTWITHSTANDING ANY OTHER LAW, THE DEPARTMENT OF EDUCATION MAY NOT  
20 COLLECT, AND SCHOOL DISTRICTS AND CHARTER SCHOOLS MAY NOT REPORT, ANY OF THE  
21 FOLLOWING INDIVIDUAL STUDENT LEVEL DATA:

22 1. JUVENILE COURT DELINQUENCY RECORDS.

23 2. CRIMINAL RECORDS.

24 3. STUDENT BIOMETRIC INFORMATION.

25 4. INFORMATION ABOUT POLITICAL AFFILIATION AND VOTING HISTORY OF  
26 STUDENTS, SIBLINGS OF STUDENTS OR PARENTS OF STUDENTS.

27 5. INFORMATION ABOUT THE RELIGION OF STUDENTS, SIBLINGS OF STUDENTS OR  
28 PARENTS OF STUDENTS.

29 6. INFORMATION ABOUT GUN AND AMMUNITION OWNERSHIP OR OTHER HOBBIES OF  
30 STUDENTS, SIBLINGS OF STUDENTS OR PARENTS OF STUDENTS.

31 7. INFORMATION ABOUT DRUG OR ALCOHOL USE OF STUDENTS, SIBLINGS OF  
32 STUDENTS OR PARENTS OF STUDENTS.

33 8. THE QUALITY OF HOME INTERPERSONAL RELATIONSHIPS.

34 9. MENTAL HEALTH SCREENINGS AND MENTAL HEALTH SURVEY DATA OF STUDENTS,  
35 SIBLINGS OF STUDENTS OR PARENTS OF STUDENTS.

36 O. NOTWITHSTANDING ANY OTHER LAW, FOR EACH VIOLATION OF THIS SECTION  
37 OR ANY RULES ADOPTED PURSUANT TO THIS SECTION BY AN ORGANIZATION OR ENTITY  
38 OTHER THAN A STATE AGENCY, A SCHOOL DISTRICT GOVERNING BOARD OR AN EDUCATION  
39 INSTITUTION, A CIVIL PENALTY SHALL BE IMPOSED IN THE AMOUNT OF ONE THOUSAND  
40 DOLLARS PER STUDENT RECORD. THE CONTRACT SHALL BE TERMINATED IF A PERSON OR  
41 ENTITY THAT IS A CONTRACTOR WITH THIS STATE OR WITH AN EDUCATIONAL ENTITY IN  
42 THIS STATE VIOLATES THIS SECTION, AND THAT PERSON OR ENTITY IS PROHIBITED  
43 FROM ENTERING INTO ANY CONTRACTS IN THE FUTURE WITH THIS STATE OR AN  
44 EDUCATIONAL ENTITY IN THIS STATE. THE ATTORNEY GENERAL MAY ENFORCE  
45 COMPLIANCE WITH THIS SECTION BY INVESTIGATIONS AND THE INITIATION OF CIVIL

1 ACTIONS TO SEEK CIVIL PENALTIES FOR VIOLATIONS OF THIS SECTION AND TO SEEK  
2 APPROPRIATE INJUNCTIVE RELIEF, INCLUDING A PROHIBITION ON OBTAINING  
3 PERSONALLY IDENTIFIABLE INFORMATION FOR AN APPROPRIATE TIME PERIOD. THE  
4 ATTORNEY GENERAL MAY SUBPOENA WITNESSES, COMPEL ATTENDANCE OF WITNESSES,  
5 EXAMINE WITNESSES UNDER OATH AND REQUIRE THE PRODUCTION, EXAMINATION OR AUDIT  
6 OF ANY BOOKS, RECORDS, DOCUMENTS, PAPERS OR ELECTRONIC RECORDS RELEVANT TO  
7 THE INQUIRY. SUBPOENAS ISSUED PURSUANT TO THIS SUBSECTION MAY BE ENFORCED  
8 PURSUANT TO THE ARIZONA RULES OF CIVIL PROCEDURE.

9 P. THE REQUIREMENTS OF THIS SECTION CONCERNING CURRICULA, STANDARDS,  
10 INSTRUCTIONAL METHODS, ASSESSMENTS, PROFESSIONAL DEVELOPMENT, DATA  
11 COLLECTION, PROPOSALS, AGREEMENTS, GRANTS OR DOCUMENTS INCLUDE BOTH PAPER AND  
12 ELECTRONIC MEDIA, WHETHER STORED LOCALLY, ON THE INTERNET OR ON SERVERS  
13 CONNECTED TO THE INTERNET OR STREAMED OR PROJECTED BY, THROUGH OR FROM ANY  
14 ELECTRONIC DEVICES OR SOFTWARE.

15 Q. FOR THE PURPOSES OF THIS SECTION, "PERSONALLY IDENTIFIABLE  
16 INFORMATION" AND "PERSONALLY IDENTIFIABLE STUDENT LEVEL DATA" INCLUDE A  
17 STUDENT'S UNIQUE IDENTIFICATION NUMBER, NAME, ADDRESS, ZIP CODE, BIRTHDATE,  
18 MOTHER'S MAIDEN NAME, SIBLING INFORMATION, SOCIAL SECURITY NUMBER AND  
19 BIOMETRIC DATA.