



1 This act shall be known and may be cited as the "Student  
2 Personal Digital Information Protection Act."

3

4 **21-25-102. Definitions.**

5

6 (a) As used in this act:

7

8 (i) "Preschool through grade twelve (12)  
9 purposes" means activities that take place at the direction  
10 of an employee or agent of a public school, school district  
11 or program provider or that aid in the administration of  
12 activities at the public school or program including, but  
13 not limited to instruction in the classroom, administrative  
14 activities, preparing for postsecondary education or  
15 employment opportunities, collaboration between students,  
16 school personnel or parents or that are for the use and  
17 benefit of the public school, school district or program;

18

19 (ii) "Program" includes services for students in  
20 preschool through grade twelve (12) which are primarily  
21 publicly funded including developmental preschool, child  
22 care and cooperative education programs;

23

1           (iii) "Operator" means any entity other than the  
2 state department of education, a school district, public  
3 school or program provider to the extent that the entity:

4

5           (A) Operates a website, software, service  
6 or application with actual knowledge the website, software,  
7 service or application is used for preschool through grade  
8 twelve (12) purposes and was designed and marketed for  
9 preschool through grade twelve (12) purposes; and

10

11           (B) In operating the website, software,  
12 service or application for those purposes collects,  
13 maintains or uses student data in a digital or electronic  
14 format.

15

16           (iv) "Student data" means any personally  
17 identifiable information of a student in preschool through  
18 grade twelve (12) who is enrolled in a Wyoming public  
19 school or program that is collected and maintained at the  
20 individual student level in the state by an employee or  
21 agent of the state department of education, school  
22 district, public school, program provider or by an  
23 operator, including but not limited to information that is:

1

2 (A) Created or provided by a student or the  
3 student's parent or legal guardian to an employee or agent  
4 of the state department of education, school district,  
5 public school, program provider or to an operator in the  
6 course of the student's or the student's parent's or legal  
7 guardian's use of the operator's site, software, service or  
8 application for preschool through grade twelve (12)  
9 purposes;

10

11 (B) Created or provided by an employee or  
12 agent of the school district, public school or program  
13 provider, including to an operator in the course of the  
14 employee's or agent's use of the operator's site, software,  
15 service or application for preschool through grade twelve  
16 (12) purposes; or

17

18 (C) Gathered by an operator through a site,  
19 software, service or application for preschool through  
20 grade twelve (12) purposes and identifies a student,  
21 including but not limited to information in the student's  
22 educational record or email, first and last name, home  
23 address, telephone number, email address or other

1 information that allows physical or online contact,  
2 discipline records, test results, special education data,  
3 juvenile delinquency records, grades, evaluations, criminal  
4 records, medical records, health records, social security  
5 number, biometric information, disabilities, socioeconomic  
6 information, food purchases, political affiliations,  
7 religious information, text messages, documents, student  
8 identifiers, search activity, photos, voice recordings or  
9 geolocation information.

10  
11 (v) "Targeted advertising" means presenting  
12 advertisements to a student where the advertisement is  
13 selected based on information obtained or inferred from the  
14 student's online behavior, usage of applications or student  
15 data. "Targeted advertising" does not include  
16 advertisements presented to a student where the  
17 advertisement is selected based upon the student's current  
18 visit to or single search query on a site, software,  
19 service or application;

20  
21 (vi) "This act" means W.S. 21-25-101 through  
22 21-25-106.

23

1           **21-25-103. Acts by operators; prohibitions.**

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3           (a) An operator shall not knowingly engage in any of  
4 the following activities without verifiable written or  
5 electronic consent from the student, if emancipated or  
6 eighteen (18) years of age or older, or the student's  
7 parent or legal guardian, if the student is an  
8 unemancipated minor:

9

10           (i) Use or gather for future use student data to  
11 engage in behaviorally targeted advertising on the  
12 operator's site, software, service or application or target  
13 advertising on any other site, software, service or  
14 application when the targeting of the advertising is based  
15 upon information, including student data, state-assigned  
16 student identifiers or other persistent unique identifiers,  
17 that the operator has acquired because of the use of the  
18 operator's site, software, service or application;

19

20           (ii) Use information, including state-assigned  
21 student identifiers or other persistent unique identifiers,  
22 created or gathered by the operator's site, software,  
23 service or application to amass a profile about a student

1 except in furtherance of preschool through grade twelve  
2 (12) purposes. For purposes of this paragraph, "amass a  
3 profile" does not include the collection and retention of  
4 account information that remains under the control of the  
5 student, parent, public school, school district or program  
6 provider;

7

8 (iii) Sell or trade student data. This  
9 prohibition does not apply to the purchase, merger or other  
10 type of acquisition of an operator by another entity,  
11 provided the operator or successor entity continues to be  
12 subject to the provisions of this act with respect to  
13 previously acquired student data; or

14

15 (iv) Except as provided in W.S. 21-25-104(a),  
16 disclose student data.

17

18 **21-25-104. Acts by operators; exceptions.**

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20 (a) An operator may disclose student data without  
21 explicit consent required under this act if the disclosure  
22 is made:

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1           (i) In furtherance of the preschool through  
2 grade twelve (12) purposes of the operator's site,  
3 software, service or application, provided that the  
4 operator shall:

5

6           (A) Prohibit the recipient of the student  
7 data from further disclosing the student data except to  
8 allow or improve the operability and functionality within  
9 that student's classroom, public school or program; and

10

11           (B) Require the recipient of the student  
12 data to comply with the requirements of this act and not  
13 use the student data in violation of this act.

14

15           (ii) To comply with federal or state law that  
16 requires the operator to disclose the student data and the  
17 operator complies with applicable requirements of federal  
18 and state law in protecting and disclosing that data;

19

20           (iii) To respond to or participate in judicial  
21 process;

22

1           (iv) To protect the safety, security and  
2 integrity of the operator's site, software, service or  
3 application and any other users of the site, software,  
4 service or application;

5

6           (v) To a service provider, provided that the  
7 operator shall:

8

9                   (A) Prohibit the service provider from  
10 using any student data for any purpose other than providing  
11 the contracted service to, or on behalf of, the operator;

12

13                   (B) Require the service provider to impose  
14 the same restrictions in this paragraph on its own service  
15 providers; and

16

17                   (C) Require the service provider to  
18 implement and maintain reasonable security procedures and  
19 practices as provided in W.S. 21-25-105.

20

21           (vi) For an educational, public health or  
22 employment purpose requested by the student, if emancipated  
23 or eighteen (18) years of age or older, or the student's

1 parent or legal guardian, if the student is an  
2 unemancipated minor, provided that the student data is not  
3 otherwise used or further disclosed by the operator for any  
4 purpose;

5

6 (vii) For legitimate research purposes:

7

8 (A) Required by federal or state law and  
9 subject to the restrictions under applicable federal and  
10 state law; or

11

12 (B) Allowed by federal or state law and  
13 under the direction of the state department of education,  
14 school district, public school or program provider.

15

16 (viii) To a state agency, school district,  
17 public school or program provider for preschool through  
18 grade twelve (12) purposes, as permitted by federal or  
19 state law.

20

21 (b) Nothing in this act prohibits an operator from  
22 using student data under the following circumstances:

23

1           (i) For maintaining, delivering, developing,  
2 supporting, evaluating, improving or diagnosing the  
3 operator's site, software, service or application;

4  
5           (ii) For adaptive learning or customized student  
6 learning purposes;

7  
8           (iii) For recommending additional content or  
9 services related to an educational, learning or employment  
10 opportunity to students within a public school service's or  
11 program service's site, software, service or application,  
12 provided that the recommendation is not determined in whole  
13 or in part by payment or other consideration from a third  
14 party;

15  
16           (iv) To respond to a student's search query or  
17 request for information or feedback, provided that the  
18 response is not determined in whole or in part by payment  
19 or other consideration from a third party; or

20  
21           (v) To ensure legal or regulatory compliance or  
22 by retaining student data for legal or regulatory  
23 compliance.

1

2           **21-25-105. Duties of operators.**

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4           (a) An operator shall:

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6                   (i) Implement and maintain reasonable security  
7 procedures and privacy practices appropriate to the nature  
8 of the student data to protect the data from unauthorized  
9 access, destruction, use, modification or disclosure; and

10

11                   (ii) Certify the deletion of student data within  
12 a reasonable time not to exceed ninety (90) days if the  
13 school district, public school or program provider having  
14 control of the data requests deletion.

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16           **21-25-106. Applicability; limitations of duties.**

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18           (a) This act shall not be construed to limit the  
19 authority of a law enforcement agency to obtain any content  
20 or student data from an operator as authorized by law or  
21 pursuant to an order of a court of competent jurisdiction.

22

1           (b) This act shall not apply to internet websites,  
2 online services, online applications or mobile applications  
3 used, designed and marketed for purposes other than  
4 preschool through grade twelve (12) purposes.

5

6           (c) This act shall not be construed to limit internet  
7 service providers from providing internet connectivity to  
8 school districts, public schools, program providers or  
9 students and their families.

10

11           (d) This act shall not be construed to prohibit an  
12 operator from marketing educational products directly to a  
13 student's parent so long as the marketing did not result  
14 from the use of student data obtained without parental  
15 consent by the operator through the provision of services  
16 covered under this act.

17

18           (e) This act shall not be construed to impose a duty  
19 upon a provider of an electronic store, gateway,  
20 marketplace or other means of purchasing or downloading  
21 software or applications to review or enforce compliance of  
22 this act on those applications or software.

23

1           (f) This act shall not be construed to impose a duty  
2 upon a provider of an interactive computer service, as  
3 defined in section 230 of title 47 of the United States  
4 Code, to review or enforce compliance with this act by  
5 third-party content providers.

6

7           (g) This act shall not be construed to impede the  
8 ability of a student or a student's parent or legal  
9 guardian to download, transfer or otherwise save or  
10 maintain the student's or the student's parent's or legal  
11 guardian's own student data or documents.

12

13           (h) Nothing in this act shall prevent the state  
14 department of education, a school district, a program  
15 provider or an employee or agent thereof from recommending,  
16 directly or by a product or service, any educational  
17 materials, online content, services or other products to a  
18 student or the student's family if the department, school  
19 district or program provider determines that the products  
20 will benefit the student and the department, district,  
21 program provider or employee or agent thereof does not  
22 receive compensation for developing, enabling or  
23 communicating the recommendations.

1

2

**Section 2.** This act is effective July 1, 2017.

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(END)