

SECOND REGULAR SESSION

SENATE BILL NO. 964

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR EIGEL.

Read 1st time January 25, 2018, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5694S.04I

AN ACT

To repeal section 161.096, RSMo, and to enact in lieu thereof two new sections relating to statewide assessments for elementary and secondary education students.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 161.096, RSMo, is repealed and two new sections
2 enacted in lieu thereof, to be known as sections 161.096 and 162.692, to read as
3 follows:

161.096. 1. The state board of education shall promulgate a rule relating
2 to student data accessibility, transparency, and accountability relating to the
3 statewide longitudinal data system. This rule shall mandate that the department
4 of elementary and secondary education do the following:

5 (1) Create and make publicly available a data inventory and index of data
6 elements with definitions of individual student data fields in the student data
7 system to include, but not be limited to:

8 (a) Any personally identifiable student data required to be reported by
9 state and federal education laws; and

10 (b) Any other individual student data which has been proposed for
11 inclusion in the student data system with a statement regarding the purpose or
12 reason for the proposed collection;

13 (2) Develop policies to comply with all relevant state and federal privacy
14 laws and policies, including but not limited to the federal Family Educational
15 Rights and Privacy Act (FERPA) and other relevant privacy laws and
16 policies. **These policies may be applied differently to students eighteen**
17 **years of age or older.** These policies shall include, but not be limited to the
18 following requirements:

19 (a) Access to personally identifiable student data in the statewide
20 longitudinal data system shall be restricted to:

21 a. The authorized staff of the department of elementary and secondary
22 education and the contractors working on behalf of the department who require
23 such access to perform their assigned duties as required by law;

24 b. District administrators, teachers, and school personnel who require
25 such access to perform their assigned duties;

26 c. Students and their parents for their own data; and

27 d. The authorized staff of other state agencies in this state as required by
28 law and governed by interagency data sharing agreements;

29 (b) The department of elementary and secondary education shall develop
30 criteria for the approval of research and data requests from state and local
31 agencies, researchers working on behalf of the department, and the public;

32 (3) Shall not, unless otherwise provided by law and authorized by policies
33 adopted pursuant to this section, transfer personally identifiable student data;

34 (4) Develop a detailed data security plan that includes:

35 (a) Guidelines for authorizing access to the student data system and to
36 individual student data including guidelines for authentication of authorized
37 access;

38 (b) Privacy compliance standards;

39 (c) Privacy and security audits;

40 (d) Breach planning, notification and procedures;

41 (e) Data retention and disposition policies; and

42 (f) Data security policies including electronic, physical, and administrative
43 safeguards, such as data encryption and training of employees;

44 (5) Ensure routine and ongoing compliance by the department of
45 elementary and secondary education with FERPA, other relevant privacy laws
46 and policies, and the privacy and security policies and procedures developed
47 under the authority of this section, including the performance of compliance
48 audits;

49 (6) Ensure that any contracts that govern databases, assessments, or
50 instructional supports that include student or redacted data and are outsourced
51 to private vendors include express provisions that safeguard privacy and security,
52 including provisions that prohibit private vendors from selling student data or
53 from using student data in furtherance of advertising, with penalties for
54 noncompliance, except to a local service provider for the limited purpose

55 authorized by the school or district whose access to student data, if any, is limited
56 to "directory information" as that term is defined in the federal regulations
57 implementing the federal Family Educational Rights and Privacy Act (FERPA),
58 20 U.S.C. Section 1232g; and

59 (7) Notify the governor, the president pro tempore of the senate, the
60 speaker of the house of representatives, and the joint committee on education
61 annually of the following:

62 (a) New student data proposed for inclusion in the state student data
63 system; and

64 (b) Changes to existing data collections required for any reason, including
65 changes to federal reporting requirements made by the U.S. Department of
66 Education.

67 2. Quantifiable student performance data shall only include performance
68 on locally developed or locally approved assessments, including but not limited
69 to formative assessments developed by classroom teachers.

70 3. The department of elementary and secondary education shall not collect
71 nor shall school districts report the following individual student data:

72 (1) Juvenile court delinquency records;

73 (2) Criminal records;

74 (3) Student biometric information;

75 (4) Student political affiliation; or

76 (5) Student religion.

77 4. Any rule or portion of a rule, as that term is defined in section 536.010,
78 that is created under the authority delegated in this section shall become effective
79 only if it complies with and is subject to all of the provisions of chapter 536 and,
80 if applicable, section 536.028. This section and chapter 536 are nonseverable and
81 if any of the powers vested with the general assembly pursuant to chapter 536 to
82 review, to delay the effective date, or to disapprove and annul a rule are
83 subsequently held unconstitutional, then the grant of rulemaking authority and
84 any rule proposed or adopted after August 28, 2014, shall be invalid and void.

85 5. Each violation of any provision of any rule promulgated pursuant to
86 this section by an organization or entity other than a state agency, a school board,
87 or an institution shall be punishable by a civil penalty of up to one thousand
88 dollars. A second violation by the same organization or entity involving the
89 education records and privacy of the same student shall be punishable by a civil
90 penalty of up to five thousand dollars. Any subsequent violation by the same

91 organization or entity involving the education records and privacy of the same
92 student shall be punishable by a civil penalty of up to ten thousand dollars. Each
93 violation involving a different individual education record or a different
94 individual student shall be considered a separate violation for purposes of civil
95 penalties.

96 6. The attorney general shall have the authority to enforce compliance
97 with this section by investigation and subsequent commencement of a civil action,
98 to seek civil penalties for violations of this section, and to seek appropriate
99 injunctive relief, including but not limited to a prohibition on obtaining
100 personally identifiable information for an appropriate time period. In carrying
101 out such investigation and in maintaining such civil action, the attorney general
102 or any deputy or assistant attorney general is authorized to subpoena witnesses,
103 compel their attendance, examine them under oath, and require that any books,
104 records, documents, papers, or electronic records relevant to the inquiry be turned
105 over for inspection, examination, or audit. Subpoenas issued under this
106 subsection may be enforced pursuant to the Missouri rules of civil procedure.

**162.692. 1. There is hereby established the "Advisory Council on
2 Special Education" within the department of elementary and secondary
3 education.**

**4 2. The advisory council shall be composed of the following twelve
5 members who shall be appointed by the governor, with the advice and
6 consent of the senate:**

7 (1) An individual to serve as the chair of the advisory council;

8 (2) A job coach;

**9 (3) A parent of a student who currently receives special
10 educational services;**

**11 (4) A parent of a high school graduate who received special
12 educational services;**

**13 (5) A math teacher who provides special educational services to
14 students;**

**15 (6) A reading teacher who provides special educational services
16 to students;**

**17 (7) A science teacher who provides special educational services
18 to students;**

**19 (8) A social studies teacher who provides special educational
20 services to students;**

21 **(9) A developmental therapist;**

22 **(10) A representative from the department of elementary and**
23 **secondary education;**

24 **(11) An individual with experience in the field of vocational**
25 **rehabilitation; and**

26 **(12) A transition coordinator.**

27 **3. (1) At least one member of the advisory council shall be a**
28 **resident of a rural area of the state.**

29 **(2) At least one member of the advisory council shall be a**
30 **resident of any city not within a county or any county with a charter**
31 **form of government and with more than nine hundred fifty thousand**
32 **inhabitants.**

33 **(3) At least one member of the advisory council shall be a**
34 **resident of any county with a charter form of government and with**
35 **more than six hundred thousand but fewer than seven hundred**
36 **thousand inhabitants.**

37 **4. The advisory council may make all rules it deems necessary to**
38 **enable it to conduct its meetings, elect its officers, and set the terms**
39 **and duties of its officers. The advisory council may elect from among**
40 **its members any officers it deems necessary; except that, the chair of**
41 **the advisory council shall be selected by the governor at the time of**
42 **appointment. Members of the advisory council shall serve without**
43 **compensation but may be reimbursed for actual expenses necessary to**
44 **the performance of their official duties for the advisory council.**

45 **5. The advisory council shall develop an alternate assessment, as**
46 **described in subsection 6 of section 160.518, for high school students**
47 **that it shall recommend for adoption by the state board of**
48 **education. The state board shall consider the recommendation of the**
49 **advisory council, as well as the recommendations by the advisory panel**
50 **established under subsection 6 of section 160.518, in establishing any**
51 **alternate assessment or assessments.**

52 **6. The advisory council shall develop alternate academic**
53 **achievement standards for high school students with the most**
54 **significant cognitive disabilities that it shall recommend for adoption**
55 **by the state board of education. The standards shall focus on both**
56 **academic skills and pragmatic capabilities for the transition from**
57 **secondary education, such as executive function skills. The state board**

58 shall use any procedures required by state law to adopt the standards.

59 7. (1) For purposes of this subsection, the following terms mean:

60 (a) "Adult student", a student of a public school or public charter
61 school who is eighteen years of age or older or who is emancipated;

62 (b) "Core subject", mathematics, reading, or science;

63 (c) "Parent", a parent or legal guardian of a student of a public
64 school or public charter school;

65 (d) "Proficiency", mastery of a given concept as demonstrated by
66 a success rate of greater than eighty percent in completing any given
67 task related to the concept;

68 (e) "Significantly delayed student", a student whose proficiency
69 in any core subject is more than five years below grade level. The term
70 "significantly delayed student" shall not include any student receiving
71 special educational services;

72 (f) "Statewide summative assessment", a standardized summative
73 assessment that is identified by the department of elementary and
74 secondary education for administration in all of the school districts and
75 public charter schools of this state.

76 (2) Any significantly delayed student who is in a grade not lower
77 than the seventh nor higher than the twelfth grade may, if the parent
78 or the adult student consents, take a modified assessment developed by
79 the advisory council under this subsection and learn under modified
80 learning standards developed by the advisory council under this
81 subsection. Each school district shall ensure that the number of
82 students taking the modified assessment does not exceed five percent
83 of the total number of all students in the district.

84 (3) The advisory council shall develop a modified assessment and
85 modified learning standards that it shall recommend for adoption by
86 the state board of education.

87 (4) Each school district shall orally recommend the parent of any
88 significantly delayed student, before the end of the student's seventh
89 grade school year, to excuse the student from statewide summative
90 assessments and consent to having the student take the modified
91 assessment.

92 8. The chair of the advisory council, with assistance from the
93 members of the advisory council as requested, shall develop a
94 document designed to educate the members and solicit initial

95 input. The advisory council shall then convene for a two-day meeting
96 within one month after the selection of the members in order to draft
97 the alternate assessment described under subsection 5 of this section,
98 the alternate academic achievement standards described under
99 subsection 6 of this section, and the modified assessment and modified
100 learning standards described under subsection 7 of this
101 section. Members shall be prepared to offer suggestions at the meeting
102 based on their informal research. Following this initial meeting, the
103 advisory council shall solicit feedback from the public for two months
104 on its proposed assessments and standards. The advisory council shall
105 convene for another two-day meeting at the conclusion of the two-
106 month feedback period in order to review the comments from the
107 public and revise the assessments and standards based on those
108 comments. Following the revision, the advisory council shall seek
109 additional feedback from both previous commenters and others for a
110 second two-month period.

111 9. The advisory council shall present the alternate assessment,
112 alternate academic achievement standards, modified assessment,
113 modified learning standards, and methods for measuring and tracking
114 progress in meeting those standards to the state board of
115 education. The state board of education shall adopt or request
116 modification of the assessments and standards within one year of
117 receipt from the advisory council.

118 10. The advisory council may present recommendations to the
119 state board of education at any time regarding the education of
120 students who receive special educational services.

121 11. The advisory council shall dissolve one year after presenting
122 the assessments and standards to the state board of education and
123 making any necessary modifications requested by the state board of
124 education.

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