



60 noncompliance, to ensure that each certified student support agency complies with the provisions of this  
61 section and any other applicable state or federal law or regulation;

62 5. Develop a model memorandum of understanding and guidelines and policies for the implementation of  
63 such memorandum of understanding to facilitate and establish requirements and limitations relating to the  
64 exchange of student personal information between certified student support agencies and school boards in  
65 the Commonwealth. Such model memorandum of understanding shall:

66 a. Act as template for the memorandum of understanding that, pursuant to subdivision D 7, each certified  
67 student support agency shall enter into with the applicable school board of any public elementary or  
68 secondary school through which it seeks to provide any student support program;

69 b. Contain specific authorizations of the applicable school board relating to the transmission, collection,  
70 and use of student personal information by the certified student support agency; and

71 c. Require the signed consent of the parent of any student or, in the case of a student who is 18 years of  
72 age or older, any student who participates in student support programs to the transmission of student  
73 personal information between school boards and the certified student support agency and to the  
74 transmission, collection, and use of such specific student's personal information as authorized pursuant to  
75 this subdivision;

76 6. Develop and make available to each certified student support program upon certification standard  
77 consent forms and procedures to be used by such certified student support programs to obtain the necessary  
78 consent from the parent of any student or, in the case of a student who is 18 years of age or older, any  
79 student, in accordance with the provisions of this section; and

80 7. Develop and make available to each school board and each certified student support program upon  
81 certification guidelines on recommended information and data security programs, systems, and protocols and  
82 best practices relating to information and data security.

83 D. Each certified student support agency that operates a student support program in accordance with this  
84 section shall:

85 1. Conform to the provisions of the federal Family Educational Rights and Privacy Act (20 U.S.C. §  
86 1232g) (FERPA);

87 2. Annually notify the parent of each student or, in the case of a student who is 18 years of age or older,  
88 the student, of the student's rights under FERPA and the provisions of this section;

89 3. Maintain a privacy policy relating to the security of student personal information that may be collected  
90 by the certified student support agency and provide prompt and prominent notice of any changes or updates  
91 made to such privacy policy to the applicable school board and to the parents of each student or, in the case  
92 of a student who is 18 years of age or older, each student receiving any support services through any such  
93 student support program;

94 4. Provide clear and accessible information to the applicable school board, to be distributed to each  
95 student or the parent of each student, detailing (i) the types of student personal information the student  
96 support agency collects through the provision of any student support program; (ii) how it maintains and  
97 transmits any student personal information collected in a manner that ensures the security, integrity, and  
98 confidentiality of such information; (iii) the uses for which any student personal information is collected by  
99 the certified student support agency; and (iv) the certified student support agency's privacy policy relating to  
100 the security of student personal information;

101 5. Maintain a comprehensive information security program that is reasonably designed to protect the  
102 security, privacy, confidentiality, and integrity of student personal information and makes use of appropriate  
103 administrative, technological, and physical safeguards;

104 6. Establish policies and procedures for facilitating access to and correction of student personal  
105 information collected, maintained, used, or shared by a certified student support agency, either directly or  
106 through a student's school or teacher, by the parent of each student or, in the case of a student who is 18  
107 years of age or older, each student receiving student support services through the applicable student support  
108 program;

109 7. Execute a memorandum of understanding, in accordance with the memorandum of understanding  
110 developed by the Department pursuant to subdivision C 5;

111 8. Collect, maintain, and use student personal information only (i) with the informed consent of the parent  
112 of each student or, in the case of a student who is 18 years of age or older, each student, receiving support  
113 services through the applicable student support program and (ii) for the purposes authorized pursuant to the  
114 memorandum of understanding executed in accordance with subdivision 7;

115 9. Require any successor nonprofit organization with which the certified student support agency shall  
116 exchange any student personal information to comply with the agency's privacy policies and procedures, the  
117 provisions of FERPA, and the provisions of this section;

118 10. Upon request of the parent of any student or, in the case of a student who is 18 years of age or older,  
119 any student securely dispose of all student personal information within 30 days of receiving the request;

120 11. Retain student personal information only for the minimum period necessary to fulfill the purposes of  
121 the memorandum of understanding, not to exceed three years after the student ceases participation, unless

earlier deletion is requested;

122     12. In the event that the certified student support agency closes without any successor nonprofit  
 123 organization, provide for the secure data transfer of any student personal information collected pursuant to  
 124 this section to the school board of the school division in which each such student is or was enrolled, to be  
 125 retained by the school board as a part of the student's scholastic record in accordance with § 22.1-289; and

126     13. Annually submit to the school board of the school division in which each student is or was enrolled a  
 127 compliance report (i) detailing (a) basic security measures the certified student support agency took to  
 128 ensure compliance with the provisions of this section for the immediately preceding school year and (b) any  
 129 known security breaches or other relevant incidents and (ii) summarizing (a) program participation and  
 130 student and parent outcomes for the immediately preceding school year and (b) any program goals for the  
 131 forthcoming school year. Such report shall be made available to the Department upon request.

132     E. No certified student support agency that operates a student support program in accordance with this  
 133 section shall knowingly:

134         1. Use or share or permit any affiliated platform or partner organization to use or share any student  
 135 personal information for the purpose of targeted advertising or for any other purpose that is not essential to  
 136 the provision of student support programs or otherwise authorized or permitted by this section;

137         2. Use or share any student personal information to create a personal profile of any student other than for  
 138 student support programs without the consent of the parent of the student or, in the case of a student who is  
 139 18 years of age or older, the student;

140         3. Transfer or transmit any student personal information except as provided by this section; or

141         4. Retain any student personal information in violation of the provisions of subsection B.

142     F. Nothing in this section shall be construed to prohibit any certified student support agency from:

143         1. Using student personal information solely to provide noncommercial tutoring or instructional support  
 144 services pursuant to a memorandum of understanding;

145         2. Using student personal information for maintaining, developing, supporting, improving, or evaluating  
 146 the applicable certified student support program;

147         3. Using aggregate data collected in whole or in part from student personal information collected through  
 148 providing any student support program for assessing student population needs and student support program  
 149 performance;

150         4. Providing recommendations to any student through a student support program relating to employment,  
 151 education, or purposes relating to learning or postsecondary achievement provided that any such  
 152 recommendations are not in whole or in part determined by or based on consideration from a third party;

153         5. Disclosing student personal information (i) as necessary to comply with applicable state or federal law  
 154 or regulation; (ii) to protect against liability; or (iii) to protect the security or integrity of the applicable  
 155 student support program; or

156         6. Disclosing student personal information for the purpose of coordinating student support services with a  
 157 governmental entity, provided that the certified student support agency, pursuant to a contract with the  
 158 governmental entity, (i) prohibits such governmental entity from using any such student personal information  
 159 for any purpose other than providing a student support service through or on behalf of the certified student  
 160 support agency; (ii) prohibits such governmental entity from disclosing to any third party any student  
 161 personal information provided by the certified student support agency, except to the extent such disclosure is  
 162 permitted by subdivision D 8; and (iii) requires the governmental entity to comply with the provisions of this  
 163 section, any policies and procedures developed in accordance with this section, or any other applicable  
 164 federal or state law or regulation.

165     G. Each school board that enters into a memorandum of understanding with a certified student support  
 166 agency to provide student support programs to students enrolled therein, pursuant to subdivision D 7, shall  
 167 transmit any of the student personal information, as authorized by the memorandum of understanding, to the  
 168 certified student support agency as soon as practicable after the school board receives from the parent of  
 169 such student or, in the case of a student who is 18 years of age or older, the student's signed consent to the  
 170 memorandum of understanding, pursuant to subdivision C 5 c and, upon receiving any request for additional  
 171 student personal information thereafter, as soon as practicable after any such request was received, provided  
 172 that the transmission of any such requested student personal information is permitted in accordance with the  
 173 provisions of this section. However, in any case designated by the Department as an exceptional case, such  
 174 requirement shall be waived and the transmission of such student personal information may be delayed.  
 175 Upon designating any case as an exceptional case, the Department shall notify the requesting party of the  
 176 delay and provide in such notification a timeline for the transmission of such student personal information.  
 177 The Department shall develop guidelines for determining whether a case should be designated as an  
 178 exceptional case and for handling such exceptional cases.

179     H. Nothing in this section shall be construed to prohibit any school board from:

180         1. Establishing policies and procedures relating to the protection of student personal information that are  
 181 more comprehensive than those required by the provisions of this section;

182         2. Requesting or receiving student personal information from any certified student support agency with

122

123

124

125

126

127

128

129

130

131

132

133

134

135

136

137

138

139

140

141

142

143

144

145

146

147

148

149

150

151

152

153

154

155

156

157

158

159

160

161

162

163

164

165

166

167

168

169

170

171

172

173

174

175

176

177

178

179

180

181

182

183

184 which it has a memorandum of understanding, pursuant to subdivision D 7, for the purpose of coordinating  
185 any applicable student support programs; or

186 3. Establishing a regional collaboration network with one or more school board that governs a  
187 contiguous school division and one or more certified student support agency providing any student support  
188 programs pursuant to this section for the purpose of facilitating resource sharing, providing compliance  
189 assistance, and collaborating to improve the efficiency and reduce the cost of delivering any such student  
190 support programs.

191 I. In the case of any data breach or unauthorized disclosure of any student personal information  
192 transmitted or collected by a certified student support agency in accordance with this section, such certified  
193 student support agency shall take immediate corrective action and promptly provide notice to the parent of  
194 each student or, in the case of a student who is 18 years of age or older, each student who was affected by  
195 such breach or unauthorized disclosure and to the applicable school board. Such notice shall be made (i) in  
196 writing to the residence of each such student or to the school board which, upon receipt of such notice, shall  
197 provide the notice directly to the student or his parent; (ii) by telephone; (iii) through e-mail; or (iv) upon  
198 demonstration by the certified student support agency that providing notice pursuant to clauses (i), (ii), or  
199 (iii) would be unduly burdensome due to cost or inability to obtain the requisite contact information for each  
200 affected individual in a reasonable amount of time, substitute notice by posting such notice conspicuously on  
201 the website of the student support agency and providing it to any major local and state news media.

202 J. No school board or public elementary or secondary school shall be liable for any civil damages for any  
203 acts or omissions resulting from any certified student support agency's noncompliance with the provisions of  
204 this section.

205 2. That the Department of Education shall, by the beginning of the 2027–2028 school year, develop and  
206 fully implement the registry of student support agencies, required pursuant to subdivision C 2 of  
207 § 22.1-289.01:1 of the Code of Virginia, as created by this act, and shall develop and make available to  
208 each school board the model memorandum of understanding, required pursuant to subdivision C 5 of  
209 § 22.1-289.01:1 of the Code of Virginia, as created by this act.

210 3. That the provisions of this act shall not become effective unless reenacted by the 2027 Session of the  
211 General Assembly.