

EDUCATION CODE
TITLE 2. PUBLIC EDUCATION
SUBTITLE F. CURRICULUM, PROGRAMS, AND SERVICES
CHAPTER 32. COMPUTERS, COMPUTER-RELATED EQUIPMENT, AND STUDENT
INFORMATION PROTECTION

SUBCHAPTER A. POWERS AND DUTIES OF STATE BOARD OF EDUCATION
RELATING TO ELECTRONIC INSTRUCTIONAL TECHNOLOGY AND
COMPUTER-RELATED EQUIPMENT

Sec. 32.001. DEVELOPMENT OF LONG-RANGE PLAN. (a) The State Board of Education shall develop a long-range plan for:

(1) acquiring and using technology in the public school system;

(2) fostering professional development related to the use of technology for educators and others associated with child development;

(3) fostering computer literacy among public school students so that by the year 2000 each high school graduate in this state has computer-related skills that meet standards adopted by the board; and

(4) identifying and, through regional education service centers, distributing information on emerging technology for use in the public schools.

(b) The State Board of Education shall update the plan developed under Subsection (a) at least every five years.

(c) The State Board of Education, in coordination with the Texas Higher Education Coordinating Board and other public agencies and institutions the State Board of Education considers appropriate, shall propose legislation and funding necessary to implement the plan developed under Subsection (a).

(d) In developing the plan, the State Board of Education must consider accessibility of technology to students with disabilities.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. [810](#)), Sec. 32, eff.

June 9, 2017.

Sec. 32.002. AUTHORITY OF SCHOOL DISTRICT. A school district is not required by this subchapter to acquire or use technology that has been approved, selected, or contracted for by the State Board of Education or the commissioner.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 32.003. AUTHORITY OF COMMISSIONER TO CONTRACT. The commissioner may contract with developers of technology to supply technology for use by school districts throughout this state.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 32.004. FEES. The State Board of Education, on the commissioner's recommendation, may establish a reasonable fee for services provided under this chapter.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

SUBCHAPTER B. STATEWIDE DEVELOPMENT OF TECHNOLOGY AND
TELECOMMUNICATIONS

Sec. 32.031. PURPOSE. To prepare students for the 21st century, it is the policy of this state that a superior education should be available to all students under a thorough and efficient system of public education. Educational resources shall be devoted to the maximum extent possible to the instruction of students. To accomplish those purposes, public education must use, in a comprehensive manner, appropriate, accessible technology in all aspects of instruction, administration, and communication.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 32.032. ELECTRONIC INFORMATION SYSTEM. (a) The agency shall establish and maintain an accessible electronic information transfer system, as provided by State Board of Education policy, that is capable of transmitting information among school districts, regional education service centers, and other education-related entities and state agencies.

(b) The commissioner may contract with suppliers of computer hardware, software, or communications equipment or services to provide accessible goods or services to school districts, regional education service centers, or the agency. The State Board of Education by rule shall adopt standards for hardware, software, and communications equipment, training, and services supplied through contract under this section.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 32.033. INTEGRATED TELECOMMUNICATIONS SYSTEM. (a) The agency, in coordination with institutions of higher education and other public or private entities, may maintain and expand, as needed, the telecommunications capabilities of school districts and regional education service centers. The agency shall design and implement a telecommunications system for distance learning throughout the state.

(b) To the extent necessary, the State Board of Education shall conduct feasibility studies related to accessible telecommunications capabilities of school districts and regional education service centers.

(c) According to priorities determined by the State Board of Education, the commissioner may contract with a public broadcasting system or another supplier of telecommunications equipment, programming, training, or services to provide equipment, programming, training, or services to school districts, regional education service centers, or the agency.

(d) In providing additional telecommunications capabilities under Subsection (a), the agency shall give priority to school districts with limited financial resources.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 2003, 78th Leg., ch. 201, Sec. 23, eff. Sept. 1, 2003.

Sec. 32.034. CENTER FOR EDUCATIONAL TECHNOLOGY. (a) The commissioner, as provided by State Board of Education policy, may enter into an interagency contract with a public institution of higher education or a consortium of public institutions of higher

education in this state to sponsor a center for educational technology under this section.

(b) The purpose of the center is to improve the quality and efficiency of the educational process through research, development, or site evaluation of:

(1) existing and new applications of technology specifically designed for educational applications; and

(2) educational applications of technology originally developed for commercial or other purposes.

(c) The membership of the center shall consist of public school educators, regional education service centers, institutions of higher education, nonprofit organizations, and private sector representatives. The State Board of Education shall establish membership policies for the center.

(d) The board of directors of the center shall be appointed by the State Board of Education and shall consist of:

(1) representatives of the center, including members of the public education system;

(2) a representative of each sponsoring institution of higher education; and

(3) the commissioner or the commissioner's representative.

(e) The board of directors shall:

(1) employ a director for the center; and

(2) establish priorities for the center's activities.

(f) The director is responsible for the center's activities.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1203 (S.B. [1455](#)), Sec. 1, eff. September 1, 2015.

Sec. 32.035. DEMONSTRATION PROGRAMS. (a) The agency shall establish demonstration programs to:

(1) investigate the uses, effectiveness, and feasibility of technologies for education; and

(2) provide models for effective education using

technology.

(b) The agency may design programs under Subsection (a) to encourage participation by and collaboration among school campuses, school districts, regional education service centers, the private sector, state and federal agencies, nonprofit organizations, and institutions of higher education.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 32.036. PREVIEW CENTERS AND TRAINING PROGRAMS. The agency may establish and provide for the operation of a technology preview center and training program in each regional education service center to assist district and campus personnel in developing and maintaining the comprehensive use of appropriate technology in all aspects of instruction, administration, and communications.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

SUBCHAPTER C. TRANSFER OF DATA PROCESSING EQUIPMENT TO STUDENTS

Sec. 32.101. DEFINITION. In this subchapter, "data processing" has the meaning assigned by Section [2054.003](#), Government Code.

Added by Acts 2001, 77th Leg., ch. 1272, Sec. 6.01, eff. June 15, 2001.

Sec. 32.102. AUTHORITY. (a) As provided by this subchapter, a school district or open-enrollment charter school may transfer to a student enrolled in the district or school:

(1) any data processing equipment donated to the district or school, including equipment donated by:

(A) a private donor; or

(B) a state eleemosynary institution or a state agency under Section [2175.905](#), Government Code;

(2) any equipment purchased by the district or school, to the extent consistent with Section [32.105](#); and

(3) any surplus or salvage equipment owned by the district or school.

(b) A school district or open-enrollment charter school may accept:

(1) donations of data processing equipment for transfer under this subchapter; and

(2) any gifts, grants, or donations of money or services to purchase, refurbish, or repair data processing equipment under this subchapter.

Added by Acts 2001, 77th Leg., ch. 1272, Sec. 6.01, eff. June 15, 2001. Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 9.020(f), eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 29.02, eff. September 28, 2011.

Sec. 32.103. ELIGIBILITY; PREFERENCE. (a) A student is eligible to receive data processing equipment under this subchapter only if the student does not otherwise have home access to data processing equipment, as determined by the student's school district or open-enrollment charter school.

(b) In transferring data processing equipment to students, a school district or open-enrollment charter school shall give preference to educationally disadvantaged students.

Added by Acts 2001, 77th Leg., ch. 1272, Sec. 6.01, eff. June 15, 2001.

Sec. 32.104. REQUIREMENTS FOR TRANSFER. Before transferring data processing equipment to a student, a school district or open-enrollment charter school must:

(1) adopt rules governing transfers under this subchapter, including provisions for technical assistance to the student by the district or school;

(2) determine that the transfer serves a public purpose and benefits the district or school; and

(3) remove from the equipment any offensive, confidential, or proprietary information, as determined by the district or school.

Added by Acts 2001, 77th Leg., ch. 1272, Sec. 6.01, eff. June 15,

2001.

Sec. 32.105. EXPENDITURE OF PUBLIC FUNDS. A school district or open-enrollment charter school may spend public funds to:

(1) purchase, refurbish, or repair any data processing equipment transferred to a student under this subchapter; and

(2) store, transport, or transfer data processing equipment under this subchapter.

Added by Acts 2001, 77th Leg., ch. 1272, Sec. 6.01, eff. June 15, 2001.

Sec. 32.106. RETURN OF EQUIPMENT. (a) Except as provided by Subsection (b), a student who receives data processing equipment from a school district or open-enrollment charter school under this subchapter shall return the equipment to the district or school not later than the earliest of:

(1) five years after the date the student receives the equipment;

(2) the date the student graduates;

(3) the date the student transfers to another school district or open-enrollment charter school; or

(4) the date the student withdraws from school.

(b) Subsection (a) does not apply if, at the time the student is required to return the data processing equipment under that subsection, the district or school determines that the equipment has no marketable value.

Added by Acts 2001, 77th Leg., ch. 1272, Sec. 6.01, eff. June 15, 2001.

SUBCHAPTER D. STUDENT INFORMATION

Sec. 32.151. DEFINITIONS. In this subchapter:

(1) "Covered information" means personally identifiable information or information that is linked to personally identifiable information, in any media or format, that is not publicly available and is:

(A) created by or provided to an operator by a student or the student's parent in the course of the student's or parent's use of the operator's website, online service, online application, or mobile application for a school purpose;

(B) created by or provided to an operator by an employee of a school district or school campus for a school purpose;
or

(C) gathered by an operator through the operation of the operator's website, online service, online application, or mobile application for a school purpose and personally identifies a student, including the student's educational record, electronic mail, first and last name, home address, telephone number, electronic mail address, information that allows physical or online contact, discipline records, test results, special education data, juvenile delinquency records, grades, evaluations, criminal records, medical records, health records, social security number, biometric information, disabilities, socioeconomic information, food purchases, political affiliations, religious information, text messages, student identifiers, search activity, photograph, voice recordings, or geolocation information.

(2) "Interactive computer service" has the meaning assigned by 47 U.S.C. Section 230.

(3) "Operator" means, to the extent operating in this capacity, the operator of a website, online service, online application, or mobile application who has actual knowledge that the website, online service, online application, or mobile application is used primarily for a school purpose and was designed and marketed for a school purpose.

(4) "Parent" includes a person standing in parental relation.

(5) "School purpose" means a purpose that is directed by or customarily takes place at the direction of a school district, school campus, or teacher or assists in the administration of school activities, including instruction in the classroom or at home, administrative activities, and collaboration between students, school personnel, or parents, or is otherwise for the use and benefit of the school.

(6) "Targeted advertising" means presenting an advertisement to a student in which the advertisement is selected for the student based on information obtained or inferred over time from the student's online behavior, usage of applications, or covered information. The term does not include advertising to a student at an online location based on the student's visit to that location at that time, or in response to the student's request for information or feedback, without the retention of the student's online activities or requests over time for the purpose of targeting subsequent advertisements.

Added by Acts 2017, 85th Leg., R.S., Ch. 355 (H.B. 2087), Sec. 2, eff. September 1, 2017.

Sec. 32.152. PROHIBITED USE OF COVERED INFORMATION.

(a) An operator may not knowingly:

(1) engage in targeted advertising on any website, online service, online application, or mobile application if the target of the advertising is based on any information, including covered information and persistent unique identifiers, that the operator has acquired through the use of the operator's website, online service, online application, or mobile application for a school purpose;

(2) use information, including persistent unique identifiers, created or gathered by the operator's website, online service, online application, or mobile application, to create a profile about a student unless the profile is created for a school purpose; or

(3) except as provided by Subsection (c), sell or rent any student's covered information.

(b) For purposes of Subsection (a)(2), the collection and retention of account information by an operator that remains under the control of the student, the student's parent, or the campus or district is not an attempt to create a profile by the operator.

(c) Subsection (a)(3) does not apply to:

(1) the purchase, merger, or any other type of acquisition of an operator by another entity, if the operator or successor entity complies with this subchapter regarding

previously acquired student information; or

(2) a national assessment provider if the provider secures the express affirmative consent of the student or the student's parent, given in response to clear and conspicuous notice, and if the information is used solely to provide access to employment, educational scholarships, financial aid, or postsecondary educational opportunities.

Added by Acts 2017, 85th Leg., R.S., Ch. 355 (H.B. 2087), Sec. 2, eff. September 1, 2017.

Sec. 32.153. ALLOWED DISCLOSURE OF COVERED INFORMATION.

(a) An operator may use or disclose covered information under the following circumstances:

(1) to further a school purpose of the website, online service, online application, or mobile application and the recipient of the covered information disclosed under this subsection does not further disclose the information unless the disclosure is to allow or improve operability and functionality of the operator's website, online service, online application, or mobile application;

(2) to ensure legal and regulatory compliance;

(3) to protect against liability;

(4) to respond to or participate in the judicial process;

(5) to protect:

(A) the safety or integrity of users of the website, online service, online application, or mobile application; or

(B) the security of the website, online service, online application, or mobile application;

(6) for a school, education, or employment purpose requested by the student or the student's parent and the information is not used or disclosed for any other purpose;

(7) to use the covered information for:

(A) a legitimate research purpose; or

(B) a school purpose or postsecondary educational purpose; or

(8) for a request by the agency or the school district for a school purpose.

(b) A national assessment provider or a provider of a college and career counseling service may, in response to a request of a student, and on receiving the express affirmative consent of the student or the student's parent given in response to clear and conspicuous notice, use or disclose covered information solely to provide access to employment, educational scholarships, financial aid, or postsecondary educational opportunities.

(c) An operator may disclose covered information if a provision of federal or state law requires the operator to disclose the information. The operator must comply with the requirements of federal and state law to protect the information being disclosed.

(d) An operator may disclose covered information to a third party if the operator has contracted with the third party to provide a service for a school purpose for or on behalf of the operator. The contract must prohibit the third party from using any covered information for any purpose other than providing the contracted service. The operator must require the third party to implement and maintain reasonable procedures and practices designed to prevent disclosure of covered information.

(e) Nothing in this subchapter prohibits the operator's use of covered information for maintaining, developing, supporting, improving, or diagnosing the operator's website, online service, online application, or mobile application.

Added by Acts 2017, 85th Leg., R.S., Ch. 355 (H.B. 2087), Sec. 2, eff. September 1, 2017.

Sec. 32.154. ALLOWED USE OF COVERED INFORMATION. This subchapter does not prohibit an operator from:

(1) using covered information:

(A) to improve educational products if that information is not associated with an identified student using the operator's website, online service, online application, or mobile application; and

(B) that is not associated with an identified student to demonstrate the effectiveness of the operator's products

or services and to market the operator's services;

(2) sharing covered information that is not associated with an identified student for the development and improvement of educational websites, online services, online applications, or mobile applications;

(3) recommending to a student additional services or content relating to an educational, learning, or employment opportunity within a website, online service, online application, or mobile application if the recommendation is not determined by payment or other consideration from a third party;

(4) responding to a student's request for information or for feedback without the information or response being determined by payment or other consideration from a third party; or

(5) if the operator is a national assessment provider or a provider of a college and career counseling service, identifying for a student, with the express affirmative consent of the student or the student's parent, institutions of higher education or scholarship providers that are seeking students who meet specific criteria, regardless of whether the identified institution of higher education or scholarship provider provides consideration to the operator.

Added by Acts 2017, 85th Leg., R.S., Ch. 355 (H.B. 2087), Sec. 2, eff. September 1, 2017.

Sec. 32.155. PROTECTION OF COVERED INFORMATION. An operator must implement and maintain reasonable security procedures and practices designed to protect any covered information from unauthorized access, deletion, use, modification, or disclosure.

Added by Acts 2017, 85th Leg., R.S., Ch. 355 (H.B. 2087), Sec. 2, eff. September 1, 2017.

Sec. 32.156. DELETION OF COVERED INFORMATION. If a school district requests the deletion of a student's covered information under the control of the school district and maintained by the operator, the operator shall delete the information not later than the 60th day after the date of the request, or as otherwise

specified in the contract or terms of service, unless the student or the student's parent consents to the operator's maintenance of the covered information.

Added by Acts 2017, 85th Leg., R.S., Ch. 355 (H.B. 2087), Sec. 2, eff. September 1, 2017.

Sec. 32.157. APPLICABILITY. This subchapter does not:

(1) limit the authority of a law enforcement agency to obtain any information from an operator as authorized by law or under a court order;

(2) limit the ability of an operator to use student data, including covered information, for adaptive learning or customized student learning purposes;

(3) apply to general audience:

(A) websites;

(B) online services;

(C) online applications; or

(D) mobile applications;

(4) limit service providers from providing Internet connection to school districts or students and students' families;

(5) prohibit an operator from marketing educational products directly to a student's parent if the marketing is not a result of the use of covered information obtained by the operator through providing services to the school district;

(6) impose a duty on a provider of an electronic store, gateway, marketplace, or other means of purchasing or downloading software or applications to review or enforce compliance with this subchapter on those applications or software;

(7) impose a duty on a provider of an interactive computer service to review or enforce compliance with this subchapter by third-party content providers;

(8) prohibit a student from downloading, exporting, transferring, saving, or maintaining the student's data or documents; or

(9) alter the rights or duties of the operator, provider, school, parent, or student under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g) or other

federal law.

Added by Acts 2017, 85th Leg., R.S., Ch. 355 (H.B. 2087), Sec. 2, eff. September 1, 2017.

SUBCHAPTER F. EDUCATION INTERNET PORTAL

Sec. 32.258. STUDENT ASSESSMENT DATA; DATA PORTAL. (a) The agency shall establish and maintain a student assessment data portal for use by school districts, teachers, parents, students, and public institutions of higher education. The agency shall establish a secure, interoperable system to be implemented through the portal under which:

(1) a student or the student's parent or other person standing in parental relationship can easily access the student's individual assessment data;

(2) an authorized employee of a school district, including a district teacher, can readily access individual assessment data of district students for use in developing strategies for improving student performance; and

(3) an authorized employee of a public institution of higher education can readily access individual assessment data of students applying for admission for use in developing strategies for improving student performance.

(b) The system established under Subsection (a) shall provide a means for a student or the student's parent or other person standing in parental relationship to track the student's progress on assessment instrument requirements for graduation.

(c) The agency shall establish an interoperable system to be implemented through the portal under which general student assessment data is easily accessible to the public.

(d) Student assessment data provided under this section must:

(1) be available on or before the first instructional day of the school year following the year in which the data is collected; and

(2) include student performance data on assessment instruments over multiple years, beginning with the 2007-2008

school year, including any data indicating progress in student achievement.

(e) Each system established under this section must permit comparisons of student performance information at the classroom, campus, district, and state levels.

Added by Acts 2003, 78th Leg., ch. 1216, Sec. 16, eff. June 20, 2003.

Renumbered from Education Code, Section 32.158 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(13), eff. September 1, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 895 (H.B. 3), Sec. 49, eff. June 19, 2009.

SUBCHAPTER G. TECHNOLOGY LENDING PROGRAM GRANTS

Sec. 32.301. ESTABLISHMENT OF PROGRAM. (a) The commissioner may establish a grant program under which grants are awarded to school districts and open-enrollment charter schools to implement a technology lending program to provide students access to equipment necessary to access and use electronic instructional materials.

(b) A school district or an open-enrollment charter school may apply to the commissioner to participate in the grant program. In awarding grants under this subchapter for each school year, the commissioner shall consider:

(1) the availability of existing equipment to students in the district or school;

(2) other funding available to the district or school;
and

(3) the district's or school's technology plan.

(c) The commissioner may determine the terms of a grant awarded under this section, including limits on the grant amount and approved uses of grant funds.

(d) The commissioner may recover funds not used in accordance with the terms of a grant by withholding amounts from any state funds otherwise due to the school district or open-enrollment

charter school.

Added by Acts 2017, 85th Leg., R.S., Ch. 705 (H.B. 3526), Sec. 20, eff. June 12, 2017.

Sec. 32.302. FUNDING. (a) The commissioner may use not more than \$25 million from the state technology and instructional materials fund under Section 31.021 each state fiscal biennium or a different amount determined by appropriation to administer a grant program established under this subchapter.

(b) The cost of administering a grant program under this subchapter must be paid from funds described by Subsection (a).

Added by Acts 2017, 85th Leg., R.S., Ch. 705 (H.B. 3526), Sec. 20, eff. June 12, 2017.

Sec. 32.303. USE OF GRANT FUNDS. (a) A school district or open-enrollment charter school may use a grant awarded under Section 32.301 or other local funds to purchase, maintain, and insure equipment for a technology lending program.

(b) Equipment purchased by a school district or open-enrollment charter school with a grant awarded under Section 32.301 is the property of the district or school.

Added by Acts 2017, 85th Leg., R.S., Ch. 705 (H.B. 3526), Sec. 20, eff. June 12, 2017.

Sec. 32.304. REVIEW OF PROGRAM. Not later than January 1, 2019, the commissioner shall review the grant program established under this subchapter and submit a report to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officers of the standing committees in the senate and house primarily responsible for public education. This section expires September 1, 2019.

Added by Acts 2017, 85th Leg., R.S., Ch. 705 (H.B. 3526), Sec. 20, eff. June 12, 2017.