

**ASSEMBLY BILL**

**No. 72**

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**Introduced by Assembly Member Duvall**

December 12, 2008

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An act to add Section 49079.5 to the Education Code, relating to pupil data.

LEGISLATIVE COUNSEL'S DIGEST

AB 72, as introduced, Duvall. Pupil data.

(1) Existing federal law requires schools and educational agencies receiving federal financial assistance to comply with specified provisions regarding the release of pupil data. State law prescribes additional rules relating to the authorized release of pupil data.

Under existing law, the State Department of Education is required to contract for the development of proposals to provide for the retention and analysis of longitudinal pupil achievement data on the tests administered pursuant to the Standardized Testing and Reporting Program (STAR), the English language development tests, and the high school exit exam. This longitudinal achievement data, known as the California Longitudinal Pupil Achievement Data System, is required to be used to accomplish specified goals, including providing school districts and the department access to the data necessary to comply with federal reporting requirements, as specified, providing a better means of evaluating educational progress and investments over time, providing local educational agencies with information that can be used to improve pupil achievement, and providing an efficient, flexible, and secure means of maintaining longitudinal statewide pupil data.

This bill would require the California Chief Information Officer to manage the data of local educational agencies through the California

Longitudinal Pupil Achievement Data System. The bill would authorize local educational agencies to share data with each other through the California Longitudinal Pupil Achievement Data System. The bill would require the State Chief Information Officer to establish a pupil data team composed of specified persons to provide input and make recommendations to the State Chief Information Officer regarding policy and procedures, including, but not limited to, the functionality of the California Longitudinal Pupil Achievement Data System data and response to requests for data. The pupil data team would be required to comply with specified requirements.

(2) Under the Information Practices Act of 1977, state agencies are prohibited from disclosing any personal information in a manner that would link the information disclosed to the individual to whom it pertains unless specified conditions are met. Existing law authorizes state agencies to release personally identifiable data to the University of California or a nonprofit educational institution conducting scientific research, provided the request for information is approved by the Committee for the Protection of Human Subjects (CPHS) for the California Health and Human Services Agency. Existing law authorizes the CPHS to enter into written agreements to enable other institutional review boards to provide the required data security approvals, as specified.

This bill would require the State Chief Information Officer to establish an institutional review board to review and respond to all requests for individually identifiable data, if authorized to do so by the CPHS. The bill would require the institutional review board to comply with specified requirements to protect individually identifiable data. The bill would require the State Chief Information Officer to adopt regulations to establish detailed criteria and procedures for the institutional review board to review and respond to data requests.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
 State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 49079.5 is added to the Education Code,  
 2 to read:  
 3 49079.5. (a) To the extent permissible under the federal Family  
 4 Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g  
 5 et seq.) and related regulations (FERPA), the State Chief

1 Information Officer shall manage the data of local educational  
2 agencies through the California Longitudinal Pupil Achievement  
3 Data System.

4 (b) To the extent permissible under FERPA, local educational  
5 agencies may share data with each other through the California  
6 Longitudinal Pupil Achievement Data System.

7 (c) The State Chief Information Officer shall review and respond  
8 to all requests for aggregate and individual nonpersonally  
9 identifiable data.

10 (d) The State Chief Information Officer shall establish an  
11 institutional review board to review and respond to all requests  
12 for individually identifiable data. The board's authority to review  
13 and respond to requests is conditioned upon receiving approval  
14 by the Committee for the Protection of Human Subjects for the  
15 California Health and Human Services Agency pursuant to  
16 paragraph (4) of subdivision (t) of Section 1798.24 of the Civil  
17 Code.

18 (1) If authorized to respond to requests, the institutional review  
19 board shall comply with subdivision (t) of Section 1798.24 of the  
20 Civil Code and FERPA.

21 (2) The State Chief Information Officer shall adopt regulations  
22 to establish detailed criteria and procedures for the institutional  
23 review board to review and respond to data requests.

24 (e) The State Chief Information Officer shall establish a pupil  
25 data team to provide input and make recommendations to the State  
26 Chief Information Officer regarding policy and procedures,  
27 including, but not limited to, the functionality of the California  
28 Longitudinal Pupil Achievement Data System data and response  
29 to requests for data by local educational agencies, parents,  
30 researchers, and others.

31 (1) The pupil data team shall be broadly representative of  
32 educational stakeholders and shall include the following members:

33 (A) Two school district superintendents selected by the  
34 Association of California School Administrators.

35 (B) Two representatives of county offices of education selected  
36 by the California County Superintendents Educational Services  
37 Association.

38 (C) One representative from the state board selected by members  
39 of the state board.

1 (D) One representative from the department selected by the  
2 Superintendent.

3 (E) One representative from the research community selected  
4 by EdSource.

5 (F) One representative from California School Information  
6 Services.

7 (G) The State Chief Information Officer or his or her designee,  
8 who shall serve as chair of the pupil data team.

9 (2) The members of the pupil data team shall serve without  
10 compensation. The members may be reimbursed for actual and  
11 necessary travel expenses incurred in the course of carrying out  
12 the duties of the pupil data team.

13 (3) The members of the pupil data team who are selected by  
14 associations or agencies shall serve at the pleasure of their  
15 respective appointing authorities. Members designated in  
16 subparagraphs (A) to (E), inclusive, shall serve two-year terms,  
17 and if vacancies occur during the term, the respective appointing  
18 authorities designated in subparagraphs (A) to (E), inclusive, may  
19 appoint a successor.