

AMENDED IN SENATE APRIL 2, 2014

AMENDED IN SENATE JULY 10, 2013

AMENDED IN ASSEMBLY MAY 14, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 928

Introduced by Assembly Member Olsen

February 22, 2013

~~An act to add Chapter 11 (commencing with Section 60910) to Part 33 of Division 4 of Title 2 of the Education Code, relating to standardized assessments. An act to amend Section 11019.9 of the Government Code, relating to state government.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 928, as amended, Olsen. ~~Standardized assessments: sale to private schools or private school organizations. Personal information: privacy.~~

The Information Practices Act of 1977 requires a state agency, among other things, to maintain in its records only personal information, as defined, that is relevant and necessary for a required or authorized purpose. Existing law requires a state department or state agency to enact and maintain a permanent privacy policy in adherence with that act that includes, but is not limited to, specified principles.

This bill would require each state department and state agency to conspicuously post, as defined, its privacy policy on its Internet Web site. The bill would also make related nonsubstantive changes.

~~Existing law requires the Superintendent of Public Instruction to design and implement a statewide pupil assessment program based on content standards and performance standards adopted by the State Board of Education. Existing law establishes the Standardized Testing and~~

Reporting Program, which includes various assessments, such as the California Standards Tests. Existing law requires, in approving a contract for the development or administration of the California Standards Tests, the state board to consider certain things, including the ability of the contractor to produce valid, reliable individual pupil scores. Existing law requires test publishers to agree in writing to meet certain requirements, including the requirement that the tests be aligned to the academically rigorous content and performance standards adopted by the state board. Existing law authorizes the State Department of Education to develop the contract through negotiations with the publisher. Existing law makes those provisions inoperative on July 1, 2014, and repeals them on January 1, 2015.

This bill would allow standardized assessments created for use in California public schools in kindergarten and grades 1 to 12, inclusive, to be available for purchase by a private school or a private school organization that has a certain affidavit or statement on file with the Superintendent, to the extent that the purchase would not violate the terms of any contract entered into between the publisher or vendor of the assessment and the State of California. The bill would require a private school or private school organization that chooses to purchase a standardized assessment to be responsible for the costs associated with the assessment, including administration costs, and to obtain a surety bond, as provided. The bill would require the Superintendent to determine the principal sum of the bond, as provided. The bill would require the private school or private school organization that chooses to purchase and administer a standardized assessment to make the results of the assessment available to the public on its Internet Web site and to the department for posting on its Internet Web site.

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 11019.9 of the Government Code is
2 amended to read:
3 11019.9. (a) Each state department and state agency shall
4 enact and maintain a permanent privacy policy, in adherence with
5 the Information Practices Act of 1977 (Title 1.8 (commencing with
6 Section 1798) of Part 4 of Division 3 of the Civil Code), that
7 includes, but is not limited to, the following principles: Code).

1 *Each state department and state agency shall conspicuously post*
2 *its privacy policy on its Internet Web site.*

3 *(b) The privacy policy required by subdivision (a) shall include,*
4 *but is not limited to, the following principles:*

5 ~~(a)~~

6 *(1) Personally identifiable information is only obtained through*
7 *lawful means.*

8 ~~(b)~~

9 *(2) The purposes for which personally identifiable data are*
10 *collected are specified at or ~~prior to~~ before the time of collection,*
11 *and any subsequent use is limited to the fulfillment of purposes*
12 *not inconsistent with those purposes previously specified.*

13 ~~(c)~~

14 *(3) Personal data shall not be disclosed, made available, or*
15 *otherwise used for purposes other than those specified, except with*
16 *the consent of the subject of the data, or as authorized by law or*
17 *regulation.*

18 ~~(d)~~

19 *(4) Personal data collected must be relevant to the purpose for*
20 *which it is collected.*

21 ~~(e)~~

22 *(5) The general means by which personal data is protected*
23 *against loss, unauthorized access, use modification or disclosure*
24 *shall be posted, unless that disclosure of general means would*
25 *compromise legitimate state department or state agency objectives*
26 *or law enforcement purposes.*

27 ~~(f)~~

28 *(6) Each state department or state agency shall designate a*
29 *position within the department or agency, the duties of which shall*
30 *include, but not be limited to, responsibility for the privacy policy*
31 *within that department or agency.*

32 *(c) For purposes of this section, the term “conspicuously post”*
33 *shall include posting the privacy policy through any of the*
34 *following means:*

35 *(1) An Internet Web page on which the actual privacy policy is*
36 *posted if the Internet Web page is the homepage or first significant*
37 *page after entering the Internet Web site.*

38 *(2) An icon that hyperlinks to an Internet Web page on which*
39 *the actual privacy policy is posted, if the icon is located on the*
40 *homepage or the first significant page after entering the Internet*

1 Web site, and if the icon contains the word “privacy.” The icon
2 shall also use a color that contrasts with the background color of
3 the Internet Web page or is otherwise distinguishable.

4 (3) A text link that hyperlinks to an Internet Web page on which
5 the actual privacy policy is posted, if the text link is located on the
6 homepage or first significant page after entering the Internet Web
7 site, and if the text link does any of the following:

8 (A) Includes the word “privacy.”

9 (B) Is written in capital letters equal to or greater in size than
10 the surrounding text.

11 (C) Is written in larger type than the surrounding text or in
12 contrasting type, font, or color to the surrounding text of the same
13 size, or is set off from the surrounding text of the same size by
14 symbols or other marks that call attention to the language.

15 (4) Any other functional hyperlink that is so displayed that a
16 reasonable person would notice it.

17 SECTION 1. ~~Chapter 11 (commencing with Section 60910)~~
18 ~~is added to Part 33 of Division 4 of Title 2 of the Education Code,~~
19 ~~to read:~~

20
21 CHAPTER 11. SALE OF STANDARDIZED ASSESSMENT MATERIALS
22

23 60910. ~~(a) Standardized assessments created for use in~~
24 ~~kindergarten and grades 1 to 12, inclusive, in the state’s public~~
25 ~~schools, including assessments required pursuant to Chapter 5~~
26 ~~(commencing with Section 60600), shall be available for purchase~~
27 ~~by a private school or private school organization, to the extent~~
28 ~~that the purchase would not violate the terms of any contract~~
29 ~~entered into between the publisher or vendor of the assessment~~
30 ~~and the State of California.~~

31 (b) ~~If a private school or private school organization chooses~~
32 ~~to purchase a standardized assessment pursuant to subdivision (a),~~
33 ~~the private school or private school organization shall be~~
34 ~~responsible for all costs associated with the assessment, including~~
35 ~~administering the assessment, training, posting assessment results~~
36 ~~on the department’s Internet Web site, and security costs, and shall~~
37 ~~obtain a surety bond issued by a surety company admitted to do~~
38 ~~business in this state. The principal sum of the bond shall be~~
39 ~~determined by the Superintendent but shall not exceed one million~~
40 ~~dollars (\$1,000,000). The bond shall be in favor of and payable to~~

1 the people of the State of California when a breach of security has
2 compromised the validity or the reliability, or both, of the
3 assessment, the assessment items, or the assessment scale.

4 (e) A private school or private school organization that chooses
5 to purchase and administer a standardized assessment pursuant to
6 subdivision (a) shall make the results of that assessment available
7 to the public on its Internet Web site and to the department for
8 posting on its Internet Web site.

9 (d) The purchase of a standardized assessment under this section
10 is available only to a private school or entity that has a current
11 affidavit or statement on file with the Superintendent in accordance
12 with Section 33190.

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